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CHAPTER 15. ZONING.¹

ARTICLE 1. GENERAL PROVISIONS.²

Sec. 15-1. Short title.

This chapter shall be known and may be cited as the Zoning Ordinance of the City of Seaford, Sussex County, Delaware.
(Zoning Ord., §101. 2, 9/23/69)

Sec. 15-2. Intent of Chapter.

The zoning regulations and districts set forth in this Chapter are made in accordance with a comprehensive plan study of the City for the general welfare of the City. The Policy Statement contained in the comprehensive plan provides the City's Community Development Objectives which shall be deemed incorporated herein.
(Zoning Ord., § 9/23/69)

Sec. 15-3. Establishment of controls.

(a) Minimum and Uniform Regulations: The regulations set by this Chapter within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land.

¹ **State law reference:** As to zoning generally, see Del. Code Ann. §§3-1-308 (1953).

² **Charter reference:** As to power to enact zoning regulations, see § 36(A)

- (b) Fore New Uses and Structures: In all districts, after September 23, 1969, any new building or other structure or any tract of land shall be constructed, developed and used only in accordance with the regulations specified for each district.
- (c) For Existing Uses and Structures: In all districts, after September 23, 1969, any existing building or other structures, or any tract of land which is not in conformity with the regulations for the district in which it is located shall be deemed as non-conforming and subject to the regulations of Article 6.
- (d) Types of Control: The following minimum and uniform regulations shall apply to the respective districts:
 - (1) Use regulations, including uses by right, and accessory uses and uses by special permit.
 - (2) Area and bulk regulations, including required front, side and rear yards, maximum permitted height and allowable lot coverage, and floor-area ratio requirements in those districts in which they apply.
 - (3) Off-street parking regulations, including minimum required parking spaces.
 - (4) Off-street loading regulations, including minimum required loading berths for specified uses.
 - (5) Sign regulations, including their sizes, lighting and location.
 - (6) Special regulations dealing with landscaping, access and traffic control.

(Zoning Ord., § 101.4, 9/23/69.)

Sec. 15-4. Establishment of district; lot size.

- (a) For the purposes of this Chapter, the City is divided into the following districts:
 - R-1 Low Density Residential District**
 - R-2 Medium Density Residential District**
 - R-3 High Density Residential District**
 - R-4 Institutional Residential District**
 - C-1 General Commercial District**
 - C-2 Highway Commercial District**
 - C-3 Riverfront Enterprise District**
 - M-1 Light Industrial District**
 - M-2 Heavy Industrial District**
 - FP- Flood Plain District**
- (b) Any lot as well, as the open spaces reserved on it, shall equal or exceed the minimum sizes prescribed by this Chapter for the district in which the lot is located.

(Zoning Ord., § 101.5. 9/23/69)

Sec. 15-5. Zoning Use District Map; adoption; boundaries.

- (a) The areas within the City limits as assigned to each district and the location of the boundaries of the districts established by this Chapter are shown upon the Zoning Map, which together with all explanatory matter thereon is declared to be a part of this Chapter and shall be kept on file with the City Manager. If, and whenever, changes are made in boundaries or other matter included on the Zoning Map, such changes in the map shall be made within five (5) days after the amendment has been approved by the Council.
- (b) The district boundary lines shall be as shown on the Zoning Map. District boundary lines are intended to coincide with lot lines, center lines of streets and alleys, the corporate boundary of the City or as dimensioned on the Map. In case of doubt or disagreement concerning the exact location of the boundary line, the determination of the Board of Adjustment as provided in Article 8 shall prevail.
- (c) Where a district boundary line divides a lot held in single and separate ownership on September 23, 1969, the use regulations applicable to the more restrictive district shall apply.

(Zoning Ord., § 101.6, 9/23/69.)

- (d) The boundaries of the Flood Plain District are established as shown on the Zoning Map of the City of Seaford, which is declared to be part of this Ordinance and which shall be kept on file at the Office of the City Manager.

- (1) The Flood Plain Districts shall be overlays to the existing underlying Districts, as shown on the Zoning Map, and as such, the provisions for the Flood Plain District shall serve as a supplement to the underlying District provisions.
- (2) Where there happens to be any conflict between the provisions or requirements of any of the Flood Plain Districts and those of any underlying District, the more restrictive provisions and/or those pertaining to the Flood Plain District shall apply.
- (3) In the event any provision concerning a Flood Plain District is declared inapplicable as a result of any legislative or administrative action or judicial determination, the basic underlying District provisions shall remain applicable.
- (4) Initial interpretations of the boundaries of the Flood Plain Districts shall be made by the Zoning Officer. Should a dispute arise concerning the boundaries of any of the Districts, the Board of Adjustment shall make the

necessary determination. The person questioning or contesting the location of the District boundary shall be given a reasonable opportunity to present his case to the Board of Adjustment and to submit his own technical evidence.

Sec 15-6. Interpretation of definitions.

(a) As used in this Chapter:

- (1) The word "building" includes "structure" and any part thereof.
- (2) The word "includes" or "including" shall not limit the term to the specified example, but is intended to extend its meaning to all other instances of like kind and character.
- (3) The phrase "used for" includes "arranged for", "designed for", "intended for", "maintained for", or "occupied for".

(Zoning Ord., § 102.1, 9/23/69)

Sec. 15-7. Definitions.

(a) As used in this Chapter:

- (1) *Accessory Building* shall mean a sub-ordinate building, the use of which is customarily incidental to that of the principal building and is used for accessory use, and is located on the same lot.
- (2) *Accessory Use or Accessory* shall mean:
 1. A use conducted on the same lot as a principal use to which it is related and located either within the same structures or in an accessory structure or an accessory use of land; except that off-street parking need not be located on the same lot.
 2. A use which is clearly incidental to, and customarily found in connection with a particular principal use.
- (3) *Alley* shall mean a minor way, which may or may not be legally dedicated, and is used primarily for vehicular service access to the rear or side of properties abutting on a street.
- (4) *Advertising Sign*; See *Sign*, and *Billboard*.
- (5) *Alterations* shall mean and include, but are not limited to the following:
 1. All incidental changes or replacement in the nonstructural parts of a building or other structures.
 2. Minor changes or replacement in the structural parts of a building or other structure, limited to the following examples and others of similar character or extent.

3. Alterations of interior partitions to improve livability in non-conforming residential buildings provided no additional dwelling units are created thereby.
4. Alteration of interior partitions in all other types of buildings or other structures.
5. Making windows or doors in exterior walls.
6. Strengthening the load bearing capacity in not more than ten percent (10%) of the total floor area to permit the accommodation of a specialized unit of machinery or equipment.

(6) *Apartment*: See *Dwelling, Multiple*.

(7) *Area of Building*: See *Lot Coverage*.

(8) *Automotive Garage* shall mean any premise used for the repair of vehicles, but not including automotive wrecking.

(9) *Automobile Laundry or Car Washing Facility* shall mean a structure used for the purposes of cleaning or reconditioning the exterior and interior surfaces of automotive vehicles, but not including an incidental one-bay washing facility in a gasoline service station where washing facilities are purely incidental to the operation of said service station. A self-operated vehicular laundering facility not requiring attendants or employees, regardless of capacity is also considered to be an automobile laundry.

(10) *Automotive Sales Building* shall mean a building used for the sale of, hire of, re-numeration from automotive equipment. This shall be interpreted to include auto accessory sales rooms but not the sale of "junked" automotive equipment.

(11) *Automotive and/or Trailer Sales Area* shall mean an open area, other than a public or private street, or way, used for the display or sale of new and used automobiles, trailers, trucks, or farm equipment and where no repair work is done except that which is minor and incidental, not including body and fender work.

(12) *Awning, fixed* shall mean a permanent non-retractable protective fixture used over windows and doors to shield from the elements.

(13) *Awning, retractable* shall mean a folding or roll-up protective fixture used over windows and doors to shield from the elements.

(14) *Basement* shall mean a story having a portion of its height below grade and the finished floor level directly above the basement with more than one-half (1/2) the height of the basement above average ground level around the building. A basement is counted as a story if the ceiling is more than six (6) feet above the average grade, or if subdivided and used for

dwelling purposes other than for a janitor employed on the premises.

(15) *Billboard* shall mean a sign other than one (1) indicating a business conducted on the premises, and a sign upon which advertising matter of any character is printed, posted, or lettered by any means and is designed for such purposes. A billboard may be either freestanding or attached to a surface of a building or other structure.

(16) *Block* shall mean a tract of land bounded by:

1. Streets;
2. Public Park;
3. Railroad right of way, excluding siding and spurs;
4. Corporate boundary lines of the City.

(17) *Building* shall mean a structure or appendage to a structure which is permanently affixed to the land, has one (1) or more floors or stories, and, is bounded by either lot lines or yards. A building shall not include such structures as billboards, fences, or other structures with interior surfaces not normally accessible to human use, such as gas tanks, grain elevators, coal bunkers, or similar structures. A building may accommodate more than one (1) family and have more than one (1) dwelling unit and may be used for residential, commercial, industrial, public or semi-public purposes.

(18) *Building Height: See Height of Building.*

(19) *Building Setback Line* shall mean an established line within a property defining the minimum required distance between the face of any structure to be erected, and an adjacent right of way, or street line. This face as measured to the major portion of the structure includes sun parlors, foyers, bay windows, porches, projecting eaves, dormers, gutters, steps, and any other solid projections and solid entrances.

(20) *Bulk* shall mean the term used to describe the size of buildings or other structures and their relationship to each other, to open areas such as yards and to lot lines and includes the size, height and floor area of building or other structure; the relation of the number of dwelling units in a residential building to the area of the lot (usually called density); and, all open areas in yard space relating to buildings and other structures.

(21) *Cellar: See basement.*

(22) *Cemetery* shall mean land used or intended to be used for the burial of the deceased, including columbariums, crematories, mausoleums and mortuaries when operated in conjunction with the cemetery and within the boundaries.

(23) *Certificate of Occupancy* shall mean a statement signed by a duly authorized City Officer setting forth that a building,

structure or use legally complies with this Chapter and other applicable codes and regulations and that the same may be used for the purposes stated therein.

- (24) *Church* shall mean a building used exclusively for residential, educational, burial, recreational or other uses not normally associated with worship.
- (25) *Club* shall mean an organization, chartered by the State for social or fraternal purposes, whose buildings and services are for members and their guests only.
- (26) *Corner lot*: See *Lot, Corner*.
- (27) *Country Club* shall mean a private club operated for profit, maintaining and operating but not limited to, a regulation golf course and associated recreational activities, with specified limitations upon the number of members, for the exclusive use of members and guests.
- (28) *Coverage*: See *Lot Coverage*.
- (29) *Density* shall mean the proportionate amount of land allocated for each primary use.
- (30) *Detached house* shall mean one which has yard areas on all four (4) sides.
- (31) *Dwelling, Single-Family* shall mean a building designed for or occupied exclusively by one (1) family.
- (32) *Dwelling, Multiple* shall mean a building used or designed as a residence for two (2) or more families living independently of each other and doing their own cooking therein, including apartment houses, apartment hotels, flats and group houses.
- (33) *Dwelling Unit* shall mean and consist of one (1) or more rooms for living purposes together with separate cooking and sanitary facilities and is accessible from the outdoors either directly or through an entrance hall shared with other dwelling units and is used or intended to be used by one (1) or more persons living together and maintaining a common household.
- (34) *Employees* and the expression "number of employees" shall mean the greatest number of persons to be employed in the building in questions during any season of the year, and any time of the day or night.
- (35) *Enlargement* shall mean an addition to the floor area of an existing building, an increase in size of another structure, or an increase in that portion of a tract of land occupied by an existing use.
- (36) *Essential Services* shall mean the erection, construction, altering or maintenance, by public utilities or municipal or other governmental agencies, of underground or overhead gas, electrical, stream or water transmission or distribution system, collection, communication, supply or disposal systems.

- (37) *Family* shall mean a single person occupying a dwelling unit and maintaining a household; two (2) or more persons related by blood or marriage or adoption occupying a dwelling unit, living together and maintaining a common household, including not more than one (1) boarder, roomer or lodger, or not more than three (3) unrelated person occupying a dwelling unit, living together and maintaining a common household (group quarters.)
- (38) *Fire Station* shall mean that the portion of a building used solely for the housing of fire fighting and auxiliary equipment.
- (39) *Floor Area* shall mean the sum of the gross livable area of several floors of a building or buildings measured from the face of exterior walls or from center lines of walls separating two (2) buildings. In particular, floor area includes, but is not limited to the following:
1. Basement space if it meets the requirements of a building story.
 2. Elevator shafts, stairwells and attic space (whether or not a floor has been laid) providing structural headroom of eight feet or more.
 3. Roofed terraces, exterior balconies, breezeways or porches, provided that over fifty percent (50%) of the perimeter of these is enclosed.
 4. Any other floor space used for dwelling purposes, no matter where located within building.
 5. Accessory buildings, excluding space used for accessory off-street parking or used for loading berths.
 6. Any other floor space not specifically excluded, excluding space used for air conditioning machinery or cooling towers, and similar mechanical equipment serving the building and cellar space.
- (40) *Floor Area Ratio* shall mean a figure which when multiplied by the lot area will determine the amount of permitted floor area. This figure is determined by dividing the gross floor area of all buildings on a lot by the area of that lot.
- (41) *Front Yard*: See *Yard, Front*.
- (42) *Front Yard Lines*: See *Yard Line, Front*.
- (43) *Garage, Community* shall mean a garage accessory to a principal building (s), shared by common property owners which is used for automobile storage purposes only and in which no business, service, or industry, whether connected directly or indirectly with motor vehicles is conducted.

- (44) *Garage, Private* shall mean a garage accessory to a principal building, used for automobile storage purposes only and in which no business, service or industry whether connected directly or indirectly with motor vehicles is conducted.
- (45) *Gasoline Service Station* shall mean an area of land, together with any structure thereon, used for:
1. *The retail sale of motor fuel and lubricants and incidental services, such a lubrication and hand washing of motor vehicles; and,*
 2. *The sale, installation or minor repair of tires, batteries or other automobile accessories.*
- (46) *Garden Apartments* shall mean a group of multi-family dwellings, up to three stores in height, designed for rental or condominium ownership of the individual housekeeping units, having common open spaces, and designed, in accordance with the special requirements for such dwellings as set forth in this Chapter.
- (47) *Golf Course* shall mean an open area and its necessary buildings, used for the playing of golf, not including a driving range, miniature course, or eating facilities in a separate building operated for additional profit.
- (48) *Goods* shall mean a finished product.
- (49) *Height of Building* shall mean the vertical distance measured from the average elevation of the proposed finished grades at the front of the building to the highest point of the roof for flat roofs; to the deck line of mansard roofs and to the main height between eaves and ridge for gable, hip, and gambrel roofs; provided that chimneys, spires, towers, mechanical penthouses, tanks and similar projections of the building not intended for human occupancy shall not be included in calculation the height. If there are two or more separate roofs on a single building, the height of such building shall be calculated from the highest roof.
- (50) *Height of Sign* shall mean the vertical distance measured from ground level to the highest point on the sign, or its supporting structure.
- (51) *Highway Access Points* shall mean the distance between any vehicular entrance or exit to a street and the next adjoining vehicular entrance or exit on the same street.
- (52) *Home Occupation* shall mean a use customarily carried on within a dwelling by the inhabitants thereof, which use is incidental and subordinate to the residential use. Home occupations shall not be interpreted to include the following: barber and beauty shops, barber and beauty schools, tea rooms, tourist homes, convalescent homes, stables or kennels.

- (53) *Hospital* shall mean a public institution providing public health services primarily for in patient medical or surgical care of the sick or injured and including related facilities such as laboratories, out-patient departments, training facilities, central service facilities, and staff offices which are an integral part of the facility.
- (54) *Hospital, Veterinary* shall mean a structure designed or converted for the care and treatment of sick or wounded domestic animals.
- (55) *Hotel* shall mean a building having six (6) or more rental rooms, without individual cooking facilities, for transient guests.
- (56) *Improved Open Space* shall mean that portion of a lot excluding area set aside or used for building, parking, loading and streets. Such area to be devoted to recreational uses, and/or play areas with appropriate recreational equipment, park furniture and landscape plantings.
- (57) *Improvement* shall mean any type of structure, excavation or paved section, excluding driveway or curb.
- (58) *Institution* shall mean a building and land used partially for the human habitation of more than two (2) unrelated persons who occupy the facility for common purposes other than housekeeping.
- (59) *Instructional Business or Trade School* shall mean a duly organized school, giving instruction in business or vocational trade subjects.
- (60) *Junk Yard* shall mean an area of land, with or without building, used for storage, outside a completely enclosed building, of used and discarded materials, including, but not limited to, waste paper, rags, metal, building materials, house furnishings, machinery, vehicles, or parts thereof, with or without the dismantling, processing, salvage, sale or other use or disposition of the same. The deposit or storage on a lot of two (2) or more unlicensed, wrecked or disabled vehicles, or the major part thereof, shall be deemed to constitute a "junk yard".
- (61) *Kindergarten, Pre-School or Day Nursery School* shall mean a school which provides day time care and instruction of two (2) or more children from two (2) or six (6) years of age inclusive, and operates on a regular or seasonal basis.
- (62) *Landscape screen* shall mean a completely planted, visual barrier composed of evergreen plants and trees arranged to form both a low level and a high level screen. The high level screen shall consist of evergreen trees planted with specimens having an initial height of not less than five feet and planted at intervals of not more than ten feet on center. The low level screen shall consist of evergreen shrubs planted at an initial

- height of not less than two feet and spaced at intervals of not more than five feet on center. The low level screen shall be placed in alternating rows to produce a more effective barrier.
- (63) *Loading space* shall mean paved accommodation off the street for loading and unloading of trucks, in the form of one or more truck berths located either within a building or in open space on the same lot. The area of each berth shall be not less than six hundred (600) square feet, and it shall have a minimum clear height, including access to it from the street, of fourteen (14) feet.
- (64) *Lot* shall mean a tract or parcel of land held in single or separate ownership which is, or may be occupied by a building including the open space required under this Chapter.
- (65) *Lot, Corner* shall mean a corner lot is one (1) bounded on a least two sides by streets, whenever the lines of such streets, extended, from an interior angle of one hundred thirty five degrees or less. The owner or developer of a corner lot may specify which street line shall be the front lot line; he shall be required so to specify at the time of filing application for a zoning permit.
- (66) *Lot Coverage* shall mean the aggregate of the maximum horizontal cross section areas of all buildings on a lot including sun parlors, foyers, porches, breezeways, projecting eaves, gutters, awnings, steps, patios, etc.
- (67) *Lot Line, Front* shall mean the line separating the lot from the street line.
- (68) *Lot Line, Rear* shall mean any lot line, except a front lot line, which is parallel to, within forty five (45) degrees of being parallel to, and does not intersect any street line. In the case of a corner lot, the owner or developer may make a different designation. See definition of *Corner lot* for requirements.
- (69) *Lot Line, Side* shall mean any lot line which is not a front lot line or a rear lot line. In the case of a corner lot, the owner or developer may make a different designation. See definition of *Corner lot* for requirements.
- (70) *Lot Width* shall mean the horizontal distance between the side lot lines measured at right angles to the lot depth.
- (71) *Manufacture* shall mean a function involving either the processing or production of materials, goods or products.
- (72) *Marquee* shall mean combination signboard and protective covering from the elements supported solely by the building to which it is attached.
- (73) *Materials* shall mean articles which are components of a future product.

- (74) *Medical clinic* shall mean a building constructed as a professional building for the offices of three (3) or more medical practitioners.
- (75) *Motel-Hotel* shall mean a building or a group of buildings, having units containing sleeping accommodations which are available for a temporary, rental occupancy by transients and providing sufficient off-street parking facilities adjacent or convenient thereto. A tourist home containing provisions or facilities for accommodation of more than two (2) transient occupants not normally quartered on the premises shall be considered as a Motel-Hotel facility under the provisions of this Chapter.
- (76) *Multiple-Family Dwellings: See Dwellings, Multiple.*
- (77) *Neighborhood Shopping Center* shall mean a group of more than one (1) retail store and/or personal service establishments and/or offices, located away from the central business district, to serve the local shopping needs of the residential areas in which they may be located.
- (78) *Non-Conforming Buildings or Structure* shall mean any lawful building or other structure which does not conform to one (1) or more of the applicable area and bulk regulations of the district in which it is located either on September 23, 1969 or as a result of a subsequent amendment thereto.
- (79) *Non-Conforming Land* shall mean any lawful lot which does not conform to one (1) or more of the applicable area regulations of the district in which it is located either on September 23, 1969, or as a result of a subsequent amendment thereto. However, no existing use shall be deemed non-conforming solely because of the existence of less than the required supplementary regulations, excluding signs.
- (80) *Nursing or Convalescent Home, Sanatorium* shall mean a facility providing nursing services on a continuing basis and which admits the majority of the occupants upon advise of physicians' as ill or inform person requiring nursing services and provides for physician's services or supervision and maintains medical records including also provisions for other similar medical or nursing services. Care of the acutely ill, or surgical or obstetrical services shall not be considered similar services under this definition, nor shall hospitals be construed to be included in this definition.
- (81) *Open Area* shall mean that portion of a lot excluding area set aside or used for buildings, parking, loading, and streets. Land devoted to recreation purposes to include land for swimming pools, tennis courts, and similar recreation uses shall be considered open area for the purpose of this definition.

- (82) *Off-Site Sanitary Sewage Disposal, Community* shall mean a sanitary sewage collection system in which sewage is carried from individual lots by a system of pipes to a *temporary* central treatment and disposal plant, generally serving only a neighborhood area.
- (83) *Off-Site Sanitary Sewage Disposal-Public* shall mean a sanitary sewage collection system in which sewage is carried from individual lots by a system of pipes to a *permanent* central treatment and disposal plant, generally serving large areas of the City or the entire City.
- (84) *On-Site (Septic Tank) Sanitary Sewage* shall mean a covered water-tight settling tank in which raw sewage is biochemically changed into solid, liquid, and gaseous states to facilitate further treatment and final disposal on the site.
- (85) *Parking Lot, Commercial* shall mean an area used for the storage or parking of automobiles, not including mobile dwelling units, for any period of time and operated for gain.
- (86) *Parking Space* shall mean paved accommodation for the parking of a motor vehicle on a lot provided for restricted use in connection with a particular business or private enterprise, or an adjunct to a housing development or private residence, whether operated for gain or not, whether cooperatively established and operated or not. Such parking spaces may consist of parking lots, private garages, or other structures and accessories; they may be surface facilities or facilities above under the ground. The net area of such parking berth, exclusive of access or maneuvering area, shall be not less than two hundred (200) square feet.
- (87) *Paved Area* shall mean a portion of land paved with a weatherproof surface for parking space, driveways or streets. In the computation of such, that area covered by buildings shall be excluded.
- (88) *Person* shall mean any individual, firm, partnership, agency or corporation.
- (89) *Premises* shall mean any lot, area, or tract of land, whether used in connection with a building or not.
- (90) *Private* shall mean any procedure limited to members of an organization or to persons specifically invited where no advertisement of inducement has been made to the general public.
- (91) *Private Garages: See Garage, Private.*
- (92) *Property* shall mean a lot or plot with or without buildings or other improvements located thereon.
- (93) *Public* shall mean any procedure in which the general public is involved,

- (A) Health: The preservation of the general physical well-being of the public.
 - (B) Safety: The protection of the security of the public.
 - (C) Welfare: The encouragement of all matters necessary to community life.
- (94) *Public Water* shall mean an approved system of providing potable water from a central location for twenty (20) or more dwellings.
- (95) *Rear Yard: See Yard, Rear.*
- (96) *Rear Yard Line: See Yard Line, Rear.*
- (97) *Recreational Area* shall mean a private or public space including essential buildings and structures used for play and recreational space for individuals.
- (98) *Rental* shall mean a procedure by which services and/or real or personal property are temporarily transferred to another person for a specific time period in exchange for something of value.
- (99) *Retail* shall mean any public procedure involving a sale.
- (100) *School, Private* shall mean a duly organized school, other than a public school or a parochial school, giving regular instruction in subjects ordinarily taught in the public schools, at least five (5) days a week for eight (8) or more months a year.
- (101) *Semi-Detached House* shall mean a house surrounded on three (3) sides by yard area and so constructed that one (1) wall is on a side lot line and abuts the neighboring house.
- (102) *Setback: See Building Setback, Line.*
- (103) *Side Yard: See Yard, Side.*
- (104) *Side Yard Line: See Yard Line, Side.*
- (105) *Sign* shall mean any letter, word, model, banner, flag, device or representation used as, or which in the nature of, an announcement, direction or advertisement concerning the business conducted on the premises, including interior signs which are visible from the street, and may be of the following types or forms:
- (A) A structure erected on supports or suspended or projecting from a building, including a banner or flag;
 - (B) The fastening of a board or other pre-painted material having pre-painted or printed thereon letters, words, or insignia; or,

- (C) The erecting or superimposing of separate cutout letters on the walls of a building or placing said letters on a plane surface which projects from the wall of the building.
- (106) *Sign, Advertising* shall mean a sign which offers services or goods produced or available somewhere other than on the lot on which the sign is located. The words "advertising sign" include the word "billboard". Neither directional, warning nor other signs posted by officials in the course of their public duties, shall be construed as advertising signs.
- (107) *Sign, Business* shall mean a sign which offers services or goods available on the lot on which the sign is located.
- (108) *Sign, Temporary* shall mean a sign which offers premises for sale, rent or development, or advertise the services of professionals or building trades during construction or alteration of the premises upon which the sign is located.
- (109) *Single-Family Detached Dwelling* shall mean a building designed for and occupied exclusively as residence for only one (1) family and having no party wall in common with an adjacent building.
- (110) *Single-Family Semi-Detached Dwelling* shall mean a building designed for and occupied exclusively as a residence for only one (1) family and having one (1) party wall in common with an adjacent building.
- (111) *Special Exception* shall deal with special permission, granted only by the Board of Adjustment to occupy land for specific purposes when such use is not permitted by right.
- (112) *Story* shall mean that portion of a building, other than the basement (as defined) including between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it.
- (113) *Street* shall mean a right-of-way (or portion thereof) intended for general public use to provide means of approach for vehicles and pedestrians. The word "street" includes the words "road", "highway", "thoroughfare" and "way".
- (114) *Street, Center Line* shall mean a line which is usually at an equal distance from both street line, or right of way lines.
- (115) *Street Line* shall mean a right of way line.
- (116) *Structure* shall mean anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground.
- (117) *Structural Alterations* shall mean any change in the supporting members of a building, such as bearing walls or

partitions, columns, beams, or girders or any substantial change in the roof or in the exterior walls.

- (118) *Structure, Non-Conforming* shall mean a structure or portion thereof lawfully existing at the effective date of the Zoning District in which it is located.
- (119) *Subdivision* shall mean the division of a single lot, tract or parcel of land and/or a part thereof, into two (2) or more lots, tracts or parcels of land, including changes in street lines or lot lines, for the purposes, whether immediate or future, of transfer of ownership, of leasing of land, or of building development.
- (120) *Swimming Club, Private (Commercial)* shall mean a private club operated for profit, maintaining and operating a swimming pool and apparatus and equipment pertaining to the swimming pool with a specified limitation upon the number of members, for the exclusive use of members and their guests.
- (121) *Swimming, Club, Private (Non-Profit)* shall mean a private club organized as a non-profit club or organization, maintaining and operating a swimming pool for the exclusive use of members and their guests.
- (122) *Swimming Pool, Private* shall mean a swimming pool and the apparatus and equipment pertaining to the swimming pool maintained by an individual for the sole use of his household and guests without charge for admission and not for the purpose of profit or in connection with any business operated for profit, located on a lot as an accessory use to a residence.
- (123) *Testing* shall mean a function involved in the examination of the qualities, performances or capabilities of a product, goods or material
- (124) *Undertaking Establishment* shall mean a licensed mortician concerned with the arrangement of cremation or burial of the dead and the overseeing of burials.
- (125) *Use* shall mean any purpose for which a building or other structure or a tract of land may be designed, arranged, intended, maintained or occupied or any activity, occupation business, or operation carried on in a building or other structure on a tract of land.
- (126) *Use, Principal* shall mean the main or primary purpose or purposes for which land, a structure, building and/or sign, or use therefore is designed, arranged or intended or for which they may be occupied or maintained under this Chapter. All other structures, buildings, signs or uses on the same lot and incidental or supplementary thereto and permitted under this Chapter, shall be considered accessory uses.
- (127) *Used Car Lot* shall mean an area used for the storage and display of used automobiles advertised for sale.

- (128) *Variance*, granted only by the Board of Adjustment, shall refer to permissive waivers from the terms of this Chapter as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions of this Chapter will result in unnecessary hardship, and so that the spirit of this Chapter shall be observed and substantial justice done.
- (129) *Yard* shall mean all open space at grade between a yard line and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward.
- (130) *Yard, Front* shall mean the yard extending along the full length of the front lot line and being the minimum horizontal distance between the front lot line (or street line) and the front yard line (of the building or any projection thereof, other than steps.)
- (131) *Yard, Rear* shall mean a yard extending the full length of the rear lot line and being the minimum horizontal distance between the rear lot line and the rear yard line (or the rear of the building or any projections, other than steps).
- (132) *Yard, Side* shall mean a yard extending along the side lot line from the required front yard to the required rear yard and being the minimum horizontal distance between the side lot line and the side yard line (or the side of the building or any projections, other than steps).
- (133) *Yard Line* shall mean a line drawn parallel to the corresponding lot lines at a distance specified for the required depth of yard in each respective case.
- (134) *Yard Line, Front* shall bound the front yard and is parallel to the front lot line.
- (135) *Yard Line, Rear* shall bound the rear yard and is parallel to the rear lot line.
- (136) *Yard Line, Side* shall bound the side yard and is parallel to the side lot line.
- (137) *Townhouses*. A building consisting of a series of three (3) or more noncommunicating one family sections having a common wall between each two adjacent sections and having a front and rear entrance at ground floor, designed in accordance with the special requirements for such dwellings as set forth in this Ordinance.
- (138) *Base Flood*. The flood which has been selected to serve as the basis on which the Flood Plan Management Provisions of this and other ordinances have been prepared; for purposes of this Chapter, the one hundred (100) year flood.
- (139) *Base Flood Elevation*. The 100 year flood elevation.
- (140) *Development*. Any man-made change to improved or unimproved real estate, including but not limited to buildings or

other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

- (141) *Flood*. A general and temporary inundation of normally dry land areas.
- (142) *Flood Proofing*. Any combination of structural and nonstructural additions, changes of adjustments to properties and structures which reduce or eliminate flood damage to lands, water and sanitary facilities, structures and contents of buildings.
- (143) *Manufactured Home*. A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connect to the required utilities. The term also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.
- (144) *Manufactured Home Park or Subdivision*. A parcel (or a contiguous parcel) of land divided into two or more manufactured home lots for rent or sale for which the construction of facilities for servicing the lot on which the manufactured home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) have been provided.
- (145) *One Hundred (100) Year Flood*. A flood has one chance in one hundred or a one percent chance of being equaled or exceeded in any given year.
- (146) *Person*. Any individual or group of individuals, corporation, partnership, association or other entity, including State and Local Government and Agencies.
- (147) *Start of Construction*. The first placement of permanent construction of a structure (other than a manufactured home) on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation. Permanent construction does not include land preparation such as clearing, grading, and filling; none does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings; such as garages or sheds not occupied as dwelling units or not as part of the main structure. For a structure (other than a manufactured home) without a without a basement or poured footings, the "start of construction" includes the first permanent framing or assembly of the structure or any part thereof on its piling or foundation. For manufactured homes not with a manufactured home park or manufactured home

subdivision, "start of construction" means the affixing of the manufactured home to its permanent site. For manufactured homes within manufactured home parks or manufactured home subdivisions, "start of construction" is the date on which the construction of facilities for servicing the site on which the manufactured home is to be affixed (including at a minimum, construction of streets, either final site grading or the pouring of concrete pads, and installation of utilities) is completed.

(148) *Structure*. A walled and roofed building including a gas or liquid storage tank, that is principally above ground as well as a manufactured home.

(149) *Substantial Improvement*. Any repair, reconstruction, or improvement of a structure, the cost of which exceeds or equals 50% of the market value of the structure either.

- a. Before the improvement or repair is started; or
- b. If the structure has been damaged and is being restored, before the damage has occurred.

For the purposes of this definition "Substantial Improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not however, include either

- a. Any project for improvement of structure to comply with existing State and local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions or
- b. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

(150) *Therapeutic treatment center for adolescents* shall mean a full time living facility for the treating of disorders by educational, vocational, and other remedial methods for person under eighteen (18) years of age, in a structured atmosphere with twenty-four (24) hours per day, on site adult supervision. This shall also include accessory uses and structures for educational, vocational and recreational activities related to the center.

(151) *Assisted living facility* shall mean a residence which provides apartment style housing and independent living for those who may need supervision for daily functioning, intervention in the event of a resident experiencing a crisis, supervision in the areas of nutrition and medications and actual

provisions of transient medical care but who do not require a chronic or convalescent medical or nursing care. It also provides support services including but not limited to an area for residents to congregate for dining, beauty salons, fitness centers, wellness centers, gift shops, luncheonettes and the sale of sundries.

Sec. 15-8. Interpretation of regulations.

The interpretation of the regulations of this Chapter is intended, in addition to the provisions of Section 15-3 to be such that whenever these requirements are at variance with any other lawfully adopted rules, regulations, ordinances, deed restrictions or covenants, such as particularly refer to area and bulk regulations and impose higher standards, the most restrictive requirement shall govern.

(Zoning Ord., §Subsection 102.3, 9/23/69.)

Section 15-9. Sketch plans; dwellings.

SKETCH PLAN

(Zoning Ord., 9/23/69.)

Section 15-10. Sketch plan; area and bulk regulations.

SKETCH PLAN

(Zoning Ord., §000.0, 9/23/69.)

ARTICLE 2. RESIDENTIAL DISTRICTS³

Division 1. R-1 Low Density Residential District.

Sec. 15-11. Intent of Division.

It is the purpose of this Division to permit continued single-family residential development at a density that is compatible with existing land use. Uses would be restricted to residential activities.

(Zoning Ord., 9/23/69.)

Sec. 15-13. Uses by Right.

³ Charter reference As to power to enact zoning regulations, see §36(A).

State law reference: As to zoning generally, see 22 Del. Code Ann. §301-332 (1974).

In any R-1 district land, buildings or premises shall be used by right for one (1) or more of the following:

1. Single family detached house.
2. Municipal utilities, towers, water storage tanks, water reservoirs, water pumping stations, water treatment plants, sub-stations, electric facilities, sewage lift stations, distribution, and transmission lines, subject to the following special requirements:

(a) No storage of materials and trucks, and no repair facilities or housing of repair crews except within completely enclosed buildings.

(b) The architectural design of the exterior of any building shall be in keeping with other structures in the neighborhood.

(Zoning Ord., §201.1, 9/23/69.)

Sec. 15-13. Accessory Uses.

(a) Only the following accessory uses shall be permitted:

(1) Customary residential accessory uses, subject to the following special requirements:

(A) Such businesses shall be operated by the residential owner or a member of the family.

(B) No signs shall be erected on the property for advertising purposes.

(C) The residential character of the structure shall not be altered.

(E) Such home occupations shall include but not be limited to dressmaking and tailoring, ceramics, furniture refinishing and repair, cosmetics, leather crafts, and clock repair. This does not include beauty shops, barber shops, real estate offices or insurance offices.

(2) Swimming pools subject to Article 5 of this Chapter.

(3) Private Greenhouse.

(4) Private garages subject to Article 5 of this Chapter.

(5) All accessory use structures shall not be less than five (5) feet from side or rear property line.

(Zoning Ord., §201.1, 9/23/69.)

Sec. 15-14. Uses by special exception.

(a) The following uses shall be permitted as a special exception when authorized by the Board of Adjustment subject to Article 8 of this Chapter.

(1) Country club, regulation golf course and customary accessory uses.

(2) Day-care centers, kindergartens, pres-schools, day nursery schools, and orphanages, subject to the following special requirements;

(A) At least one hundred (100) square feet of outdoor play space per child be provided.

(B) Outdoor play space shall be fenced or otherwise enclosed on all sides and shall not include driveways, parking areas, or land unsuited by other usage or natural features for children's active play space. Fencing or other enclosures shall be a minimum height of four (4) feet and shall be subject to all setback requirements for the district within which it is located.

(C) The minimum lot area for each six (6) or remainder over the multiple of six (6) children shall be the same as the minimum lot area requirement for each dwelling unit in the districts in which such uses are to be located, provided, however, that no lot less than seven thousand five hundred (7500) square feet shall be used for such purposes; and provided further that no more than forty (40) children shall be accommodated at any time on a lot.

(3) Nursing home, rest home or home for the aged, subject to the following special requirements:

(A) The minimum lot area required for each four (4) or remainder over a multiple of four (4) resident patients or resident guest shall be the same as the minimum lot area required for each dwelling unit in the District in which the use is to be located, provided, however, that no lot contains less than seven thousand five hundred (7500) square feet.

(B) The minimum lot width shall be one hundred fifty (150) feet.

(C) No more than forty (40) patients or resident guests shall be accommodated at one time in any one establishment.

(4) Church or other place of worship, seminary or convent, parish house or Sunday school building.

(5) Public and private elementary, junior, and senior high schools.

(6) Police and fire stations.

(7) Library, museum and art gallery.

(8) Non-municipal utilities, telephone center offices, sub-stations, electric and gas facilities, cable television facilities, subject to the following special requirements:

A. No storage or materials and trucks and no repair facilities or housing of repair crews except within completely enclosed buildings.

B. The architectural design of the exterior of any building shall be in keeping with other structures in the neighborhood.

(9) Park, playground, athletic field, recreation building, and community center operated on a non-commercial basis for recreation purposes

(Zoning Ord., §202.1, 9/23/69)

Sec. 15-14. Area and bulk regulations.

a) The following area and bulk requirements shall be observed:

- 1) Lot size - 7,500 square feet minimum
- 2) Lot Width - 75 foot minimum
- 3) Lot Coverage - 30% maximum
- 4) Building setback Line - 20 feet minimum except that a structure may

Be closer to the curb line to

conform to

5) Side Yard

Adjoining existing structures
- 20 feet aggregate total with an 8 foot minimum

6) Rear Yard

- 20 foot minimum

7) Height

- 35 foot maximum or 3 stories

(Zoning Ord., §201.2, 9/23/69)

Sec. 15-16. Off-street parking regulations.

The off-street parking regulations shall be as required by Article 5 of this Chapter.

(Zoning Ord., §201.3, 9/23/69)

Amended March 14, 1989.

Division 2. R-2 Medium Density Residential District.⁴

Sec. 15-17. Intent of Division.

It is the purpose of this Division to limit residential development to lots that will yield a density of approximately nine (9) to ten (10) dwelling units per acre. Several housing types are allowed in addition to professional uses with such structures.

(Zoning Ord., §202, 9/23/69)

Sec. 15-18. Uses by right.

In any R-2 district, land, buildings, or premises shall be used by right only for one or more of the following:

- (1) Any use permitted in the R-1 district.
- (2) Single family semi-detached structure.

⁴ **Charter reference:** As to power to enact zoning regulations, see § 36(A).

(3) Two (2) family detached structure.
(Zoning Ord., §202.1, 9/23/69)

Sec. 15-19. Accessory uses.

(a) Only the following accessory uses shall be permitted:
(1) Any use permitted in the R-1 district.

(Zoning Ord., §202.1, 9/23/69.)

Sec. 15-20. Uses by special exception.

(a) The following uses shall be permitted as a special exception when authorized by the Board of Adjustment subject to Article 8 of this Chapter.

- (1) Any use permitted in the R-1 district.
- (2) Single family semi-detached structure, or two (2) family detached structure subject to the following requirements:
 - a. The lot area per duplex shall not be less than 9,000 square feet.
 - b. One and one-half off street parking spaces shall be provided per dwelling unit.
 - c. All parking areas shall be paved with approved paving materials of hot-mix pavement, concrete, or tar and chip pavement.
 - d. Ten (10%) percent of the lot shall be attractively landscaped with a minimum of four (4) shrubs, two (2) trees and other plantings. This area shall be clearly defined and protected from damage. The developer shall also maintain and replace any non-surviving plantings, as a requirement of occupancy.
 - e. All landscaping shall be located to be visible from the street frontage of the lot. Lot street frontage shall be determined by the Building Official.
 - f. Curbing or parking bumpers shall be provided at all parking spaces to protect all adjacent buildings and landscaped area.
 - g. A screened trash container area shall be provided for all dwelling units. The minimum screened area dimensions per dwelling unit shall be four (4) feet wide, four (4) feet deep

and four (4) feet high. A latch-able gate shall be provided.

- h. The following building setbacks shall be observed:

- 1) Building Setback Line -30 feet minimum
- 2) Side Yards -14 feet
- 3) Rear Yard -30 feet minimum

each side

- i. The Board of Adjustment may prescribe such further conditions with respect to the development and use of the building or property, as it deems appropriate.
- j. A development plan showing all necessary improvements shall be submitted to the Board of Adjustment for approval.
- k. An enclosed storage area with a minimum of 300 cubic feet shall be provided for each dwelling unit. This storage area shall not be used for the storage of household garbage.

Amended September 14, 1999.

Sec. 15-21. Area and bulk regulations.

- a. The following area and bulk regulations shall be observed:

- 1) Lot size - 4,500 square feet
- 2) Lot Width - 35 feet minimum
- 3) Lot Coverage - 40% maximum
- 4) Building Setback Line - 15 feet minimum
- 5) Side Yards - 14 feet aggregate total with a 6 foot minimum
- 6) Rear Yard - 20 feet minimum
- 7) Height - 35 feet maximum or 3 stories

(Zoning Ord., §202.2, 9/23/69 as amended)

Sec. 15-22. Off-street parking regulations.

The off-street parking regulation shall be as requested by Article 5 OF THIS chapter.

(Zoning Ord., §202.3, 9/23/69)

Division 3. R-3 High Density Residential District.⁵

Sec. 15-23. Intent of Division.

It is the purpose of this Division to permit development of garden type apartment structures that will yield high densities in selected areas of the City.

(Zoning Ord., §203, 9/23/69)

Sec. 15-24. Uses by right.

(a) In any R-3 district, land, buildings or premises shall be used by right only for one (1) or more of the following:

- 1) Garden Apartments.
- 2) Townhouses.

Sec. 15-25. Accessory Uses.

(a) Only the following accessory uses shall be permitted:

- 1) Customary garden apartment accessory uses.
- 2) Swimming pools subject to Article 5 of this Chapter.
- 3) All accessory use structures shall not be less than five (5) feet from the side or rear property line.

Sec. 15-26. Area and bulk regulations.

(a) Area and bulk regulations: Any area to be developed for R-3 purposes (the "site") shall observe the following regulations:

- | | |
|---|--|
| 1) Site area | - One (1) acre minimum |
| 2) Dwelling unit per acres | - 14 maximum |
| 3) Dwelling units per garden apartment building or each group attached townhouse dwelling units | - 18 maximum |
| 4) Street frontage of site | - 50 foot minimum along public street |
| 5) Depth of site | - 100 foot minimum |
| 6) Building setback line | - 25 feet minimum from all perimeter and interior streets and exterior property lines of the site. |
| 7) Site coverage | - building area shall not exceed 20% of site area. |
| 8) Side lines | - minimum distance from the side of any garden apartment |

⁵ **Charter reference:** As to power to enact zoning regulations, see §36(A).

- building or from the side of any end unit of a townhouse group to an exterior property line of the site shall be 20 feet.
- 9) Rear yards - 25 feet minimum
 - 10) Height - 35 feet maximum, or 3 stories
 - 11) Habitable Floor Area - Four hundred fifty square feet minimum per dwelling unit, excluding stairs, corridors and basements recreation rooms for any dwelling unit having less than two (2) bedrooms; Six hundred (600) square feet minimum per dwelling unit excluding stairs, corridors, basement recreation rooms for any dwelling unit having two (2) or more bedrooms.
 - 12) Subgrade units - a basement shall not contain habitable rooms except for custodian's living quarters or basement recreation rooms.
 - 13) Building placement - no part of any garden apartment building or townhouse building comprising a series of attached dwelling units shall be nearer than 25 feet to any other garden apartment building or townhouse building on such site, and no portion of the front or rear of any such garden apartment building or townhouse building shall be nearer than 50 feet to any other garden apartment or townhouse building on such site.
 - 14) Landscape screen - Along each side or rear property line which directly abuts a residential district in the city or similar district in the country, a landscape screen of not less than 15 feet in width as defined in Section 102.2(A) 62 shall be provided.
 - 15) Single townhouse lot
Minimum lot width - 16 feet minimum

Lot depth	- 100 feet minimum
Front yard	- 25 feet minimum
Rear yard	- 25 feet minimum
Side yard (end unit)	- 10 feet minimum

(Zoning Ord. §203.2, 9/23/69.)

Sec. 15-27. Off-street parking regulations.

The off-street parking regulations shall be as required by Article 5 of this Chapter.

(Zoning Ord. §203.2, 9/23/69.)

Division 4. R-4 Institutional Residential District.

Sec. 15-27A. Intent of Division.

It is the purpose of this Division to permit development of institutional uses in accordance with an approved plan of development. The district is to provide suitable areas and adequate safeguards for such uses to serve the City of Seaford and the surrounding region.

(Zoning Ord., Amended 4/26/88)

Sec. 15-27B. Uses by Right.

In any R-4 district, land, building, or premises shall be used by right only for one (1) or more of the following:

- 1) Medical and Surgical Hospitals;
- 2) Medical and Dental Centers;
- 3) Nursing Homes;
- 4) Sanitoriums;
- 5) Medical Arts Offices and Buildings.

(Zoning Ord. Amended 4/26/88)

Sec. 15-27C. Accessory Uses.

Only the following accessory uses shall be permitted in an R-4 district and only when incidental to the permitted use.

- (1) Cottages or houses;
- (2) Maintenance buildings;
- (3) All accessory uses shall be located not less than twenty (20) feet from the side or rear property line.

(Zoning Ord. Amended 4/26/88)

Sec. 15-27D. Uses by Special Exception.

(a) The following uses shall be permitted as a special exception when authorized by the Board of Adjustment subject to Article 8 of this Chapter.

1. Detoxification Centers;
2. Drug Abuse Centers;
3. Multi-level Parking Facilities.

(Zoning Ord. Amended 4/26/88)

Sec. 15-27E. Area and Bulk Regulations.

(a) The following area and bulk regulations shall be observed:

- (1) Lot Size - 1 acre minimum
- (2) Lot Width - 50 foot minimum
- (3) Lot Coverage - 50% maximum
- (4) Building Setback Line - 20 feet minimum for single story
- 50 feet minimum for two or more stories
- (5) Side Yards - 20 feet minimum for single story
- 50 feet minimum for two or more stories
- (6) Rear Yard - 20 feet minimum
- (7) Height - 60 feet maximum or five stories

(Zoning Ord. Amended 4/26/88)

Sec. 15-27F. Off-street Parking Regulations.

The off street parking regulations shall be as required by Article 5 of this Chapter.

(Zoning Ord. Amended 4/26/88)

Sec. 15-27G. Design and Performance Standards.

The design and performance standards shall be as required by Article 5 of this Chapter.

(Zoning Ord. Amended 4/26/88)

ARTICLE 3. COMMERCIAL DISTRICTS.⁶

Division 1. C-1 General Commercial Districts.

⁶ **Charter reference:** As to power to enact zoning regulations, see 36(A).

Sec. 15-28. Intent of Division.

It is the purpose of this Division to make provisions along certain major arterial routes for limited types of commercial development that complement each other and adjacent land uses.

(Zoning Ord., §301, 9/23/69)

Sec. 15-29. Uses by Right.

(a) In any C-1 district, land, building, or premises shall be used by right only for one (1) or more of the following:

- 1) General merchandise stores including department store, "5 and 10" variety stores, general merchandise discount stores, drug stores and sporting goods;
- 2) Apparel and accessories stores including shoe stores, furriers, and custom tailors;
- 3) Furniture, home furnishing and equipment including household appliance stores, hardware, paint and glass stores; radio and television stores including services;
- 4) Food stores including supermarkets; bakeries and confectionery shoppes where the production of baked goods is to be sold only at retail on the premises; dairy products; and meats;
- 5) Eating establishments including restaurants, lunch counters, delicatessens, tearooms, cafe, taverns, confectionery or similar establishments serving food or beverages which are consumed inside the establishment;
- 6) Gift shops, including cameras, book, stationery, antique, musical supplies, cosmetics, candy, cigarettes and tobaccos, flowers, hobby, jewelry, leather and luggage shops;
- 7) Offices for the conduct of medical and other professions, real estate and insurance and banks, including branch banks, banks, messenger or telegraph services, and general and administrative offices;
- 8) Business machine shops, sales and services;
- 9) Personal service shops, including dry cleaning, barber, beautician, shoe repair, Laundromat, and tailor;
- 10) Government offices serving the public, including a Post Office, or other public or semi-public offices;
- 11) Indoor recreational facilities, including theaters and bowling alleys.
- 12) Artists and photographers studios.
- 13) Factory authorized new automobile sales, agencies and services; including repair shops adjacent to and in conjunction therewith.

- 14) Gasoline service stations, storage or public garage, automobile repair shops, subject to special regulations of Section 15-33.
- 15) Mortuaries.
- 16) Laboratories for research and development.
- 17) Libraries and museums.
- 18) Motel-hotels and related facilities such as restaurants, meeting rooms, and auditorium spaces and swimming pools.
- 19) Car Wash Establishments, subject to the special regulations of this Article.
- 20) Newspaper publishing and job printing.
- 21) General service or contractors' shops, including carpenter, cabinet making, furniture repair, light metal working, garment manufacturing, tinsmith, plumbing or similar shop.
- 22) Business place of a builder, carpenter, caterer, cleaner, contractor, decorator, dyer, electrician, furrier, mason, painter, plumber, roofer, upholsterer, and similar non-nuisance businesses, excluding open storage of materials and excluding open storage of motor vehicles.
- 23) Sub-station, telephone central office, electric and gas facilities, sewage lift station, water pumping station, subject to the following special requirements.
 - a. No storage of materials and trucks, and no repair facilities or housing of repair crews except within completely enclosed buildings.
 - b. The architectural design of the exterior of any building shall be in keeping with other structures in the neighborhood.
- 24) Apartments above commercial businesses.
- 25) Therapeutic treatment centers for adolescents and related facilities.
- 26)

(Zoning Ord., §301.1, 9/23/69)
Amended January 12, 1999.

Sec. 15-30. Accessory Uses.

- (a) Only the following uses shall be permitted:
- (1) Accessory buildings and uses customarily incidental to the uses described in Section 15-29
 - (2) All accessory uses structures shall not be less than five (5) feet from the side or rear property lines.

(Zoning Ord., §301.1, 9/23/69).

Sec. 15-31. Uses by Special Exception.

The following uses shall be permitted as a special exception when authorized by the Board of Adjustment subject to Article 8 of this Chapter.

- (1) Self-storage facility subject to Section 15-48(A).
- (2) Day care centers, kindergartens, pre-schools, day nursery schools, and orphanages, subject to the following special requirements;
 - (a) At least one hundred (100) square feet of outdoor play space per child shall be provided.
 - (b) Outdoor play space shall be fenced or otherwise enclosed on all sides and shall not include driveways, parking areas or land unsuited by other usage or natural features for children's active play space. Fencing or other enclosures shall be a minimum height of four (4) feet and shall be subject to all setback requirements for the district within which it is located.
 - (c) The minimum lot area for each six (6) or remainder of the multiple of six (6) children shall be the same as the minimum lot area requirement in the zoning district in which such uses are to be located, provided, however, that no lot less than four thousand (4000) square feet in area shall be used for such purposes in C-1 and no lot less than fifteen thousand (15,000) square feet in area shall be used for such purposes in C-2; provided further than no more than forty (40) children shall be accommodated at any one time on a lot.

Amended May 28, 1996.

- (4) Seasonal storage containers subject to the following special requirements;
 - (a) Any moveable container or trailer shall be allowed to be placed on the premises for a period of time not to exceed 120 days.
 - (b) The maximum number of containers shall be established by the Board of Adjustment and Appeals.
 - (c) The containers shall not be placed in fire lanes and parking spaces nor placed to interfere with access to manholes, water valves or other public utilities.
 - (d) The containers shall only be placed on the side or rear of the property.
 - (e) All containers shall be in good condition and kept in good repair.

- (f) The Building Official shall have the authority to require relocation or removal of any container that is in violation of the special exception requirements.
- (g) All applications for a special exception shall be accompanied by a diagram showing the exact location for placement of the containers.

Adopted January 16, 1999.

- (5) Nursing home, rest home or home for aged, assisted living facility for the elderly residents subject to the following requirements:
 - (a) A minimum of 90% of the residents must be at least sixty two (62) years of age.
 - (b) The maximum lot density shall not be more than 15 dwelling units per acre.
 - (c) The minimum lot size shall not be less than three (3) acres.
 - (d) The minimum gross floor area shall not be less than one hundred fifty (150) square feet for the first occupant and one hundred (100) square feet for the second occupant.
 - (e) Accessory uses shall include but not be limited to, fitness centers, wellness centers, beauty salons, gift shops, luncheonettes, and the sale of sundries, housed within the same structure.
 - (f) A storage building for storage of maintenance equipment and supplies related to the maintenance of the facility shall be located not less than five (5) feet from the side and rear property lines.
 - (g) Off street parking requirements shall be one space for each three (3) dwelling units plus one (1) space for each two employees on the largest shift.

Adopted February 9, 1999.

Sec. 15-32. Area and bulk regulations.

- (a) The following area and bulk regulations shall be observed:
 - (1) Lot Size - 4000 square feet minimum
 - (2) Lot Width - 30 feet minimum
 - (3) Lot Coverage - 100 % maximum
 - (4) Height - 45 feet maximum or 3 stories

(Zoning Ord., §301.2, 9/23/69)

Sec. 15-33. Gasoline service stations; regulations.

(a) Gasoline service stations shall be subject to the following special regulations:

- (1) Minimum lot size – 31,780 square feet
- (2) Minimum lot depth – 100 feet
- (3) Minimum lot width – 140 feet
- (4) Minimum setback line from front property lines – 40 feet
- (5) Minimum distance from all property lines other than front property – 25 feet.
- (6) Minimum distance between buildings, including accessory uses, and any residence district – 50 feet.
- (7) Minimum distance between any access driveway and any residence district – 50 feet
- (8) Minimum distance between any service station and repair garage access driveways and the following uses: church, library, school, college, nursing home, hospital, and similar uses – 200 feet, measured along the same street line in the same block.
- (9) Minimum distance between structures of any service station and/or repair garage and another service station and/or repair garage shall be four hundred (400) feet, measured along the same street line in the same or adjoining block. For similar use establishments locating in confronting adjacent blocks, the point of beginning measurement shall off-set to the opposite street line, except that this provision shall be applicable when the common street is separated by a divider strip, medial strip or other similar control devise.
- (10) Minimum distance between gasoline pump islands, compressed air connections, and similar equipment and facilities and any street lines – 20 feet.
- (11) Maximum width of curb cuts for access driveways – 35 feet, excepting a combined entrance and exit may total fifty (50) feet.
- (12) Spacing of access driveways:
 - (A) Minimum distance from adjoining property lines –10 feet.
 - (B) Minimum distance from intersection property or right of way lines – 20 feet.
 - (C) Minimum distance between access driveways –20 feet.
- (13) Except for access driveway openings where the curb shall be depressed, a raised curb of at least six (6) inches in height shall be provided along all street lines.
- (14) Hydraulic hoists, pits, and all lubrication, greasing, washing, and repair equipment shall be entirely enclosed with buildings.

- (15) Exterior lighting shall be shielded so that it is deflected away from adjacent properties and from passing motorists.
- (16) Wrecked or junked or stripped vehicles in an inoperative condition shall not be allowed on the premise.
- (17) No gasoline or petroleum products shall be allowed to enter the City sanitary or storm drainage water sewage systems.
- (18) All waste petroleum products shall be stored in underground tanks as approved by the National Fire Protection Association.

(Zoning Ord., §301.3, 9/23/69)

Sec. 15-34. Car wash establishments; regulations.

(a) Car wash establishments shall be subject to the following special regulations:

- (1) Minimum lot size – 24,000 square feet.
- (2) Minimum lot width – 120 feet.
- (3) Minimum lot depth – 200 feet.
- (4) Minimum setback line from front property line – 40 feet.
- (5) Minimum distance from all property lines other than front property lines – 20 feet.
- (6) Minimum distance between any buildings, including accessory uses, and any Residence District – 50 feet.
- (7) Minimum distance between any access driveway and Residence District – 50 feet.
- (8) Minimum distance between any access driveway and any adjoining property line – 10 feet.
- (9) Minimum distance between any access driveway and an access of any of the following uses: church, library, school, college, nursing home, hospital and similar uses – 200 feet measured along the same street line in the same block.
- (10) Maximum width of curb cuts for access driveways – 35 feet, excepting a combined entrance and exit may total fifty (50) feet.
- (11) Parking requirements:
 - (A) A waiting or stacking area on the lot for incoming automobiles accessible to the entrance end of the washing equipment, to accommodate at least fifteen (15) automobiles for each lane provided in the washing area.
 - (B) An area beyond the exit end of the washing equipment for at least six (6) automobiles for each lane provided in the washing area.
- (12) Entrance access driveways shall not be located within 300 feet of the intersection of any two (2) street lines.

- (13) Exterior lighting shall be shielded so that it is deflected away from adjacent properties and from passing motorists.
 - (14) All parking spaces and access driveways shall be paved with a weatherproof material.
 - (15) Dripping vehicles shall not be allowed on streets or highways so as to cause ice hazards in freezing weather. Equipment shall be installed to prevent this condition.
- (Zoning Ord., §301.4, 9/23/69)

Sec. 15-35. Conversion of dwelling to non-residential use.

The conversion of a dwelling to a non-resident use shall be as required by Article 5 of this Chapter.
(Zoning Ord., §301.5, 9/23/69)

Sec. 15-36. Off-street parking regulations.

The off street parking regulations shall be as required by Article 5 of this Chapter.
(Zoning Ord., § 9/23/69)

Sec. 15-37. Off-street loading regulations.

The off street loading regulations shall be as required by Article 5 of this Chapter.
(Zoning Ord., §301.7, 9/23/69)

Sec. 15-38. Design and performance standards.

The design and performance standards shall be as required by Article 5 of this Chapter.
(Zoning Ord., §301.8, 9/23/69)

Division 2. C-2 Highway Commercial District.⁷

Sec. 15-39. Intent of Division.

It is the purpose of this Division to make appropriate provision for commercial activities which are basically oriented to automotive use and traffic. This includes service type businesses which ordinarily require major arterial locations and serve regional as well as local customers.
(Zoning Ord., §302, 9/23/69)

⁷ **Charter Reference:** As to power to enact zoning regulations, see §36(A).

State law reference: As to zoning generally see 22 Del. Code Ann. §§301-308 (1953).

Sec. 15-40. Uses by right.

(a) In any C-2 district, land, buildings or premises shall be used by right for one (1) or more of the following:

- (1) Any use permitted in C-1 General Commercial Districts.
- (2) Self-storage facility subject to special regulations of Section 15-48A.

(Zoning Ord. – Amended 11/25/86)

Sec. 15-40A. Uses by Special Exception.

(1) Day care facilities subject to the special regulations in Sec. 15-31 (2).
Adopted May 28, 1996.

(2) Seasonal storage containers subject to the following special requirements:

- (a) Any moveable container or trailer shall be allowed to be placed on the premises for a period of time not to exceed 120 days.
- (b) The maximum number of containers shall be established by the Board of Adjustment and Appeals.
- (c) The containers shall not be placed in fire lanes, and parking spaces nor placed to interfere with access to manholes, water valves or other public utilities.
- (d) The containers shall only be placed on the side or rear of the property.
- (e) All containers shall be in good condition and kept in good repair.
- (f) The Building Official shall have the authority to require relocation or removal of any container that is in violation of the special exception requirements.
- (g) All applications for a special exception shall be accompanied by a diagram showing the exact location for placement of the containers.

Adopted January 16, 1999.

(3) Nursing home, rest home, or home for aged, assisted living facility for the elderly residents, subject to the following requirements:

- (a) A minimum of 90% of the residents must be at least sixty two (62) years of age.
- (b) The maximum lot density shall not be more than 15 dwelling units per acre.
- (c) The minimum lot size shall be not less than 3 acres.
- (d) The minimum gross floor area shall not be less than one hundred fifty (150) square feet for the first occupant and one hundred (100) square feet for the second occupant.
- (e) Accessory uses shall include, but not be limited to, fitness centers, wellness centers, beauty salons, gift shops,

luncheonettes, and the sale of sundries, housed within the same structure.

- (f) A storage building for storage of maintenance equipment and supplies related to the maintenance of the facility shall be located not less than five (5) feet from the side and rear property lines.
- (g) Off street parking requirements shall be one space for each three (3) dwelling units plus one (1) space for each two employees on the largest shift.

Adopted February 9, 1999.

Sec. 15-41. Accessory uses.

- (a) Only the following accessory uses shall be permitted:
 - (1) Accessory use on the same lot with and customarily incidental to any of the permitted uses in Section 15-40.
 - (2) All accessory use structures shall not be less than five (5) feet from the side or rear property line.
- (Zoning Ord., §302.1, 9/23/69)

Sec. 15-42. Area and bulk regulations.

- (a) The following area and bulk regulations shall be observed:
 - (1) Lot Size - 15,000 square feet minimum
 - (2) Lot Width - 100 feet minimum
 - (3) Lot Coverage - 50% maximum
 - (4) Building Setback Line - 50 feet minimum
 - (5) Side Yards - 20 feet minimum each
 - (6) Rear Yard - 25 feet minimum
 - (7) Height - 35 feet maximum or 3 stories
 - (8) Lot Depth - 150 feet minimum
- (Zoning Ord., §302.2, 9/23/69)

Sec. 15-43. Gasoline service stations. Regulations.

Gasoline service stations shall be subject to the regulations required by Section 15-33 of this Chapter.
(Zoning Ord., §302.3, 9/23/69)

Sec. 15-44. Car wash establishments; regulations.

Car wash establishments shall be subject to the regulations required by Section 15-34 of this Chapter.
(Zoning Ord., §302.4, 9/23/69)

Sec. 15-45. Conversion of dwelling to non-residential use.

The conversion of a dwelling to a non-residential use shall be required by Article 5 of this Chapter.

(Zoning Ord., §302.5, 9/23/69)

Sec. 15-46. Off-street parking regulations.

The off-street parking regulations shall be required by Article 5 of this Chapter.

(Zoning Ord., § 302.6, 9/23/69)

Sec. 15-47. Off-street loading regulations.

The off street loading regulations shall be as required by Article 5 of this Chapter.

(Zoning Ord., §302.7, 9/23/69)

Sec. 15-48. Design and performance standards.

The design and performance standards shall be as required by Article 5 of this Chapter.

(Zoning Ord., §302.8, 9/23/69)

Sec. 15-48(A). Self-storage facility; regulations.

(a) Self-storage facility shall be subject to the following regulations:

- (1) Minimum lot size – 43,560 square feet
- (2) Minimum lot depth – 150 feet.
- (3) Minimum lot width – 150 feet
- (4) Minimum setback from all property lines – 30 feet
- (5) Minimum distance between buildings – 25 feet
- (6) A self-storage facility shall have plantings of trees and shrubs on all sides except for the side of the property where the property fronts where no plantings shall be required.
- (7) A self-storage facility shall be enclosed with a fence not less than six (6) feet in height nor more than eight (8) feet in height.
- (8) The self-storage facility shall have a gate capable of being opened by any person occupying a storage compartment or unit.
- (9) There shall be at least one (1) parking space in front of each storage compartment or unit for use by the person occupying such storage of personal property.
- (10) Any exterior lighting shall be shielded so that it is deflected away from adjacent properties and passing motorists.
- (11) All access drives shall be at least twenty five (25) feet in width.
- (12) All parking spaces and access drives shall be paved with a water-proof material.

(Zoning Ord., Adopted 11/25/86)

Division 3. C-3 Riverfront Enterprise Zone.

Sec. 15-48b. Intent of Division.

It is the purpose of this Division to make appropriate provisions for commercial activities for limited commercial and residential development that compliment each other and adjacent land uses; and to preserve retail store fronts on High Street.

Sec. 15-48c. Uses by right.

(a) In a C-3 district, land, buildings, or premises shall be used by right for only one (1) or more of the following:

- (1) Retail and specialty stores, including antique shops, clothing shops, electronics, hardware, florists, beauty salon, craft shops, toy and hobby shops, stationery and card, newsstand, bookstore, art and photographic supplies, gift shops, furniture, jewelry (including repair but not pawn shops), specialty food stores (but not supermarkets), and other similar uses.
- (2) Retail food stores limited to bakeries, confectionery, candy, gourmet shops, gourmet meat shops and other similar uses.
- (3) Restaurant (but not drive-ins), brew pubs, taverns, bakery-restaurants, lunch counters, tearooms, cafes, coffee shops, delicatessens, carryouts, and similar uses.
- (4) Package stores.
- (5) Financial institutions, banks and loan companies.
- (6) Medical, professional and business offices, including administrative activities.
- (7) Service establishments such as beauty salon, barbershops, interior decorator, photographic, art, craft, dance or music studios, and catering.
- (8) Government offices, serving the public, including the Post Office, police and fire stations, municipal offices and other public or semi-public offices.
- (9) Libraries, museums, and art galleries.
- (10) Instructional, business or trade schools.
- (11) Apartments above commercial business, excluding residential unit on the ground floor of a building.
- (12) Day care facilities and pre-school facilities.
- (13) Bed and breakfast Inns.
- (14) Single family or multi family dwellings, except on High Street.
- (15) Stock brokerage and investment firms.
- (16) Church or other place of worship:
 1. This shall be limited to existing facilities specifically built as churches or Sunday School buildings.

2. Retail space or residential structures shall not be used to house churches or other places of worship. In such locations which now exist as places of worship, when that use ceases, no other place of worship will be allowed to relocate in that space, as provided in Sec. 15.99(b).

(b) Uses by Special Exception.

(a) The following uses shall be permitted as a special exception when authorized by the Board of Adjustment subject to Article 8 of this Chapter.

- (1) Motion picture theatre facilities within a completely enclosed building.
- (2) Drive-up windows for banks and financial institutions.
- (3) Outdoor eating establishments.
- (4) Single family or multi family dwellings on High Street.
- (5) Parking lots.
- (6) Travel agencies.
- (7) Telemarketing.
- (8) Retail cleaning.
- (9) Employment agencies.

(c) Prohibited Uses.

(a) Any uses which is not an authorized use by right, shall be prohibited in a C-3 district, including but not limited to the following:

- (1) Gas stations and car washes.
- (2) Pawn shops.
- (3) Industrial manufacturing facilities for the purpose of processing, packaging and fabricating, excluding dressmaking, tailoring, and crafts and activities of a similar nature and to be sold only at retail on the premises.
- (4) Warehouses.
- (5) Retail stores over 30,000 square feet.
- (6) Tattoo parlors.
- (7) Adult entertainment, including strip tease establishments, stores selling adult merchandise, drug paraphernalia and items of a similar nature.

Sec. 15-48d. Parking Requirements.

(a) C-3 Riverfront Enterprise Zone off-street parking options.

- (1) The off street parking requirements in Article 5 of this Chapter may be reduced or waived for any permitted use with the approval of the City Council.

Sec. 14-48e. Area and bulk requirements.

(a) The following area and bulk regulations should be observed for High Street.

- a. Lot coverage 100% maximum
- b. Front yard setback none
- c. Side yard setback none
- d. Rear yard setback 3 feet minimum
- e. Height 35 feet or three stories
- f. No subdivision of existing lots will be permitted.

(b) The following area and bulk requirements should be observed for the remaining area in the zone.

- a. Lot coverage 40% maximum
- b. Building setback line 15 feet
- c. Side yard setback 14 feet aggregate total with a 6 foot minimum
- d. Rear yard setback 20 feet minimum
- e. Height 35 feet maximum or 3 stories
- f. Lot size 4500 square feet minimum
- g. Lot width 35 feet minimum

Sec. 15-48f. Accessory Use.

(a) Only the following accessory uses shall be permitted:

- (1) Accessory use on the same lot with and customarily incidental to any of the permitted uses in Section 15-48 (c).
- (2) All accessory structures shall not be less than five (5) feet from the side or rear property line.

Adopted March 13, 20021.

Amended October 23, 2001.

ARTICLE 4. INDUSTRIAL DISTRICT.⁸

Sec. 15-49. Intent of Division.

It is the purpose of this Division to encourage industrial development which is free from offensive noise, vibration, smoke, odors, glare, hazards of fire or other objectionable effects. Industries which can meet the standards imposed in this Division shall be permitted to locate in districts adjacent to commercial and residential adjoining districts, provided that adequate landscaping and screening are provided. Residential uses are prohibited in industrial districts.

(Zoning Ord., §401, 9/23/69)

Sec. 15-50. Uses by right.

⁸ **Charter reference:** As to power to enact zoning regulations, see §36(A).

State law reference: As to zoning generally, see 22 Del. Ann. §§ 301-308 (1953)

(a) In M-1 districts, land, buildings or premises shall be used by right for only one (1) or more of the following:

1. Electronics and small parts assembly and/or manufacture.
2. Scientific or industrial research, engineering laboratory, testing or experimental laboratory, or similar establishment for research or product development.
3. Warehouse and distribution facilities.
4. Administrative activities and offices.
5. Manufacture, compounding, processing or treatment of such products as: bakery goods, confectionaries, cosmetics, dairy products, drugs, perfumes, pharmaceuticals, toiletries, and food products except the following: fish, sauerkraut, pickles, vinegar, yeast and the rendering of oils and fats.
6. Manufacture, compounding, assembling or treatment of articles of merchandise from the following previously prepared materials: bone, concrete products, cellophane, canvas, cork, cloth, feathers, felt, fiber, fur, glass, hair, horn, leather, paper and paper board, plastic, precious or semi-precious metals or stones, marble, metals, shell, straw, textiles, wood, yard or paint.
7. Wholesale business; storage buildings and warehouses of products permitted by right.
8. Public utility service yard and substation.
9. Building materials sales yard.
10. Contractors equipment storage yard or building or rental of equipment commonly used by contractors.
11. Sub-station, telephone central office, electric and gas facilities, sewage lift stations, water pumping station, subject to the following special requirements:
 - (A) No storage of materials and trucks, and no repair facilities or housing of repair crews except within completely enclosed buildings.
 - (B) The architectural design of the exterior of any building shall be in keeping with other structures in the neighborhood.

(Zoning Ord., §401., 9/23/69)

Sec. 15-51. Accessory uses.

- (a) Only the following accessory uses shall be permitted:
- (1) Restaurant or cafeteria facilities for employees.
 - (2) Recreational facilities for employees and occupants.
 - (3) Storage within a completely enclosed building in conjunction with a permitted use.
 - (4) Other accessory uses on the same lot with and customarily incidental to any of the permitted uses in Section 15-50 and not detrimental to the neighborhood.
 - (5) All accessory use structures shall not be less than five (5) feet from the side or rear property line.
- (Zoning Ord. §401.1, 9/23/69)

Sec. 15-52. Area and bulk regulations.

- (a) The following area and bulk regulations shall be observed:
- | | |
|--------------------------------|--------------------|
| (1) Lot Size | - 2 acres minimum |
| (2) Lot Width | -200 feet minimum |
| (3) Lot Coverage | -50% maximum |
| (4) Paved Area Coverage | - 30% maximum |
| (5) Building Setback Line | -25 feet minimum |
| (6) Side Yards
each | - 25 feet minimum |
| (7) Rear Yard | - 15 feet minimum |
| (8) Distance Between Buildings | -25 feet minimum |
| (9) Height | - 60 feet maximum |
| (10) Lot Depth | - 150 feet minimum |
- (Zoning Ord. – Amended 11/22/88)

Sec. 15-53. Off-street parking regulations.

The off-street parking regulations shall be as required by Article 5 of this Chapter.
(Zoning Ord., §401.3, 9/23/69)

Sec. 15-54. Off-street loading regulations.

The off-street loading regulations shall be as required by Article 5 of this Chapter.
(Zoning Ord., §401.4, 9/23/69)

Sec. 15-55. Design and performance standards.

The design and performance standards shall be as required by Article 5 of this Chapter.
(Zoning Ord., § 9/23/69)

Division 2. M-2 Heavy Industrial District.⁹

Sec. 15-56. Intent of Division.

It is the purpose of this Division to provide industrial locations for plants which require a large area for their operations and which are normally undesirable adjacent to residential and commercial areas.
(Zoning Ord., §402, 9/23/69)

Sec. 15-57. Uses by right.

(a) In M-2 districts, land, buildings or premises shall be used by right for only one (1) or more of the following:

- (1) Any use permitted in M-1 Light Industrial Districts.
- (2) Manufacture or storage of food products, petroleum, or petroleum products, chemical and chemical products, rubber and plastic products, stone, clay and glass products, primary metal products, fabricated metal products, machinery including electrical machinery, incinerator, and essential services.

(Zoning Ord., 402.1 9/23/69)

Sec. 15-58. Accessory uses.

(a) Only the following accessory uses shall be permitted:

- (1) Any accessory use permitted in M-1 Light Industrial Districts.

(Zoning Ord., §402.1, 9/23/69)

Sec. 15-59. Area and bulk regulations.

(a) The following area and bulk regulations shall be observed:

- | | |
|--------------------------------|------------------------|
| (1) Lot Size | - 3 acres minimum |
| (2) Lot Width | - 200 feet minimum |
| (3) Lot Coverage | - 50% maximum |
| (4) Paved Area Coverage | - 30% maximum |
| (5) Building Setback Line | - 25 feet minimum |
| (6) Side Yards | - 25 feet minimum each |
| (7) Rear Yard | - 15 feet minimum |
| (8) Distance Between Buildings | - 25 feet minimum |

⁹ **Charter reference:** As to power to enact zoning regulations, see §36(A).

State law reference: As to zoning generally, see 22 Del. Ann. §§301-308 (1953)

(9) Height	- 70 feet maximum or 7 stories
(10) Lot Depth	- 150 feet minimum

(Zoning Ord., 402.2, 9/23/69)

Sec. 15-60. Off-street parking regulations.

The off street parking regulations shall be as required by Article 5 of this Chapter.

(Zoning Ord., §402.3, 9/23/69)

Sec. 15-61. Off-street loading regulations.

The off-street loading regulations shall be required as Article 5 of this Chapter.

(Zoning Ord., §402.4, 9/23/69)

Sec. 15-62. Design and performance standards.

The design and performance standards shall be required by Article 5 of this Chapter.

(Zoning Ord., §402.5, 9/23/69)

ARTICLE 4A. FP-FLOOD PLAIN DISTRICTS.

Sec. 15-62A. The intent of this Article is to:

- (a) Promote the general health, welfare, and safety of the community;
- (b) Encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future;
- (c) Minimize danger to public health and safety by protecting water supply, sanitary sewage disposal, and natural drainage;
- (d) Reduce financial burdens imposed on the community, its governmental units, and its residents, by preventing the unwise design of construction of developments in areas subject to flooding.

Sec. 15-62B. The provisions of this Article supersedes any ordinance currently in effect in flood prone areas. However, any provisions of this Code shall remain in full force and effect to the extent that such provision is more restrictive.

Section 15-62C. The provisions of all other codes, ordinances and regulations, shall be applicable insofar as they are consistent with the provisions of this Article and the need of the municipality to minimize the hazards and damage resulting from the flooding.

Sec. 15-62D. The degree of flood protection sought by the provision of this Article is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur on rare occasions. Flood heights may be increased be manmade, or natural

causes, such as ice jams and bridge openings restricted by debris. The provisions of this Article do not imply that areas outside the Flood Plain Districts, or that land uses permitted within such Districts, will be free from flooding or flood damage. The provisions of this Article shall not create any liability on the part of The City of Seaford, its officers, agents, servants or employees for any flood damage that may result from reliance upon the provisions of this Article, or any administrative decision lawfully made thereunder.

Sec. 15-62E.

(A) The Flood Plain District which shall include all area subject to inundation by the waters of the One Hundred (100) Year Flood. The source of this delineation shall be the Flood Insurance Study for The City of Seaford, Sussex County, Delaware as prepared by the Federal Emergency Management Agency, Federal Insurance Administration.

(B) The Flood Plain District shall be comprised of three (3) subdistricts, as follows:

(i) Floodway (F1) – that portion of the Flood Plain District required to carry and discharge the waters of the One Hundred (100) Year Flood without increasing the water service elevation at any point more than one (1) foot above existing conditions, as demonstrated in the Flood Insurance Study referred to herein.

(ii) Floodway Fringe (F2) – those portions of land within the Flood Plain District subject to the inundation by the One Hundred (100) Year Flood, lying beyond the floodway in areas where detailed study data and profiles are available.

(iii) Approximately Flood Plain (F3) – those portions of land within the Flood Plain District subject to inundation by the One Hundred (100) Year Flood, where a detailed study has not been performed, but where a One Hundred (100) Year Flood Plain Boundary has been approximated. In determining the necessary elevations, as well as a floodway, for purposes of this Article, other sources of data must be used, such as:

- (1) Corps of Engineers- Flood Plain Information Reports;
- (2) U.S. Geological Survey – Flood Prone Quadrangles;
- (3) U.S.D.A., Soil Conservation Service – County Soil Surveys (Alluvial Soils);
- (4) Known high water marks from past floods;
- (5) Other sources.

The owner or developer of any proposed subdivision, manufactured home park or subdivision or other development shall submit a site plan to the Permit Officer which includes the following information:

- (1) Name of engineer, surveyor, or other qualified person responsible for providing the information required in this section.

- (2) A map showing the location of the proposed subdivision and/or development with respect to the municipality's flood plain areas, proposed lots and sites, fills, flood or erosion protective facilities, and areas subject to special deed restrictions, In addition, it is required that all subdivisions proposals and other proposed new developments greater than 50 lots or five (5) acres, whichever is the lesser, shall include base flood elevation data.
- (3) Where the subdivision and/or development lies partially or completely in the flood plain areas, the plan map shall include detailed information giving the location and elevation of proposed roads, public utilities and building sites. All such maps shall also show contours at intervals of two (2) or five (5) feet depending upon the slope of the land and identify accurately the boundaries of the flood plain areas.
- (C) The delineation of the Flood Plain District may be revised, amended and modified by the City Council in compliance with the National Flood Insurance Program when:

- (a) There are changes through natural or other causes; or

- (b) Changes are indicated by future detailed hydrologic and hydraulic studies.

All such changes shall be subject to the review and approval of the Federal Insurance Administrator.

Sec. 15-62F.

(A) All uses, activities, and developments occurring within any Flood Plain District shall be undertaken only upon issuance of a building permit. Such developments shall be undertaken only in strict compliance with the provisions of this Article and with all other applicable codes and ordinances, such as the Building Code, and the Subdivision Regulations. Prior to the issuance of any such permit, the Building Official shall require all applications to include compliance with all applicable State and Federal laws. Under no circumstances shall any use, activity, and/or development adversely affect the capacity of the channels or floodways of any water course, drainage pitch or any other drainage facility or system. Whenever a developer intends to alter or relocate a water course within the Flood Plain Area, the developer shall notify in writing by certified mail all adjacent communities and the State Coordinating Office of all such intended activities prior to any alteration or relocation of the water course, and shall submit copies of such notification to the Federal Insurance Administrator. The developer shall also assure the City of Seaford, in writing, that the flood carrying capacity within the altered or relocation portion of the water course in question will be maintained.

(B) Within any floodway area, no development shall be permitted that would cause any increase in the 100 year flood elevation. All developments shall be undertaken in strict compliance with the flood proofing and related provisions contained in this Article and in all other applicable codes and ordinances. Manufactured homes shall not be placed in the Floodway District, except into existing manufactured home parks or manufactured home subdivisions.

(C) In the Flood Fringe District and the Approximated Flood Plain District, the development and/or use of land shall be permitted in accordance with the regulations of the underlying District, provided that all such uses, activities, and/or development shall be undertaken in strict compliance with the flood proofing and related provisions contained in this Article and in compliance with all applicable codes and ordinances.

Section 15-62G. In addition to the permanent application and requirements normally required by the City, the Building Official shall require the following specific information:

(a) A plan which details the existing and proposed contours in elevation (in relation to National Geodetic Vertical Datum of 1929) of the ground and the lowest floor of proposed construction, One Hundred (100) Year Flood Elevation and other associated factors, such as pressure and impact forces, etc., storage elevations, size of the structure, location and elevations of streets, water supply, sanitary facilities, soil types and flood proofing measures, including specific references to the level of the flood proofing in relation to the One Hundred (100) Year Flood.

(b) A document certified by a registered professional engineer or architect, which states that the proposed construction has been adequately designed to withstand the flood depths, pressures, velocities, impact and uplift forces and other hydrostatic and hydrodynamic and buoyancy factors associated with the One Hundred (100) Year Flood. Such statement shall include a brief description of the type and extent of flood proofing measures which have been incorporated into the design of the structure.

Section 15-62H. In order to prevent excessive damage to buildings and structures, the following restrictions shall apply to all development, including substantial improvements to existing structure occurring in the Flood Plain District:

(A) All new construction and substantial improvements of residential structures must have the lowest floor (including basement) elevated to or above the Base Flood Elevation. All new construction and substantial improvements of non-residential structures must have the lowest floor (including basement) elevated to or above the Base Flood Elevation or, together with attendant utility and sanitary facilities, be designed so that below the Base Flood Elevation the structure is water tight

with walls substantially impermeable to the passage of water and with structural components having the capacity of resisting hydrostatic and hydrodynamic loads and effect of buoyancy.

For all new construction substantial improvements, those fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exist of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

- (a) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
- (b) The bottom of all openings shall be no height than one foot above grade.
- (c) Openings may be equipped with screens, louvers, valves, or other coverings, or devices provided that they permit the automatic entry and exist of floodwaters. Manufactured homes shall be elevated on a permanent foundation so that the lowest floor of the manufactured home will be at or above the Base Flood Elevation.

(B) If fill is used to raise the finished surface of the lowest floor to or above the Base Flood Elevation:

- (a) Fill shall extend beyond the structure for a sufficient distance to provide accessible access. For residential structures, fill shall extend laterally fifteen (15) feet beyond the building line from all points. For non-residential structures, fill shall be placed to provide access acceptable for intended use. At grade access with fill extending laterally fifteen (15) feet beyond the building lines, shall be provided to a minimum of twenty five percent (25%) of the perimeter of a non-residential structure.
- (b) Fill shall consist of soil or rock materials only. Sanitary landfill shall not be permitted.
- (c) Fill material shall be compacted to provide the necessary stability and resistance to erosion, scouring or settling.
- (d) Fill slopes shall be no steeper than one (1) vertical on two (2) horizontal, unless substantiating data justifying steeper slopes are submitted to and approved by the Building Inspector.

(e) Fill shall only be used to the extent to which it does not adversely affect adjacent properties.

(C) The placement of buildings, structures and manufactured homes shall be as follows:

(a) All buildings and structures shall be constructed and placed on the lot so as to offer the minimum obstruction to the flow of water and shall be designed to have a minimum obstruction effect upon the flow and height of floodwater.

(b) Manufactured homes shall be elevated on compacted fill on pilings so that the lowest floor of each manufactured home will be at or above the Base Flood Elevation.

(c) Adequate surface drainage and access for a manufactured home hauler shall be provided.

(d) When manufactured homes are to be elevated on pilings, lots shall be large enough to permit steps; pilings shall be placed in stable soil no more than ten (10) feet apart, and reinforcements shall be provided for pilings more than six (6) feet above the ground level.

(D) Anchoring is required as follows:

(a) All buildings and structures shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse and lateral movement, thus reducing the threat of life and property and decreasing the possibility of blockage of bridge openings and other restricted sections of water sources.

(b) All air ducts, large pipes, and storage tanks located at or below the Base Flood Elevation shall be firmly anchored to resist flotation.

(c) All manufactured homes shall be anchored to resist flotation, collapse, or lateral movement by providing over the top and frame ties to ground anchors, specifically:

- i. Frame ties shall be provided at each corner of the home with five additional ties per side at intermediate points, with manufactured homes less than 50 feet long requiring four additional ties per side.
- ii. All components of the anchoring system shall be capable of carrying

a force of Four Thousand Eight Hundred (4,800) pounds.

- iii. Any additions to a manufactured home shall be similarly anchored.

This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

(E) The requirements for utilities and facilities are as follows;

(a) All new or replacement water systems located in the Flood Plain District, whether public or private, shall be flood proofed to or above the Base Flood Elevation.

(b) All new or replacement sanitary disposal systems located within the Flood Plain District, whether public or private, shall be flood proofed to or above the Base Flood Elevation.

(c) All other new or replacement public and/or private utilities and facilities shall be elevated or flood proofed to or above the Base Flood Elevation.

(d) All electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(F) Adequate drainage shall be provided to reduce exposure of flood hazards.

Section 15-62I.

(A) If compliance with the elevation or flood proofing requirements stated in this Article would result in an exceptional hardship for a prospective builder, developer, or landowner, the City may upon request, grant relief from the strict application of the requirement. Request for variances from the strict application of the provisions of this Article may be granted by the Board of Adjustment of The City of Seaford, pursuant to the following procedures and criteria:

- a. No variance or special exception shall be granted for any construction, development, use or activity within any floodway area that would cause any increase in the One Hundred (100) Year Elevation.
- b. If granted, a variance shall involve the least modification necessary to provide relief.

- c. In granting any variance, the Board of Adjustment may attach whatever reasonable conditions and safeguards it considers necessary in order to protect the public health, safety, and welfare and to achieve the objectives of this Article.
 - d. Whenever a variance is granted, the Board of Adjustment shall notify the applicant in writing that:
 - i. The granting of the variance may result in increased premium rates for flood insurance; and
 - ii. Such variances may increase the risk to life and property.
 - e. In reviewing any request for a variance the Board of Adjustment shall consider, but not be limited to the following;
 - i. That there is good and sufficient cause for the variance;
 - ii. The failure to grant the variance will result in exceptional hardship to the applicant;
 - iii. That the granting of the variance will not result in any unacceptable or prohibited increase to flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on, or victimization of the public, or conflict with any other applicable local or state ordinance and regulation.
 - f. A complete record of all variance request and related actions shall be maintained by the Board of Adjustment. In addition, a report of all variances granted during the years shall be included in the annual report to the Federal Insurance Administration.
- (B) Notwithstanding any of the above, however, all structure shall be designed and constructed so as to have the capability of resisting the hydrostatic and hydrodynamic floods and pressures and effect of buoyancy of the One Hundred (100) Year Flood.

Section 15-62J. Definitions.

1 Base Flood. The flood which has been selected to serve as the basis on which the Flood Plain Management Provisions of this and other ordinances have been prepared; for purposes of this Chapter, the One Hundred Year Flood.

2.Base Flood Elevation. The One Hundred Year Flood elevation.

3.Basement. Any area of the building having its floor subgrade (below ground level) on all sides.

4.Development. Any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations and storage of equipment and materials.

5.Flood. A general and temporary inundation of normally dry land areas.

6.Flood Proofing. Any combination of structural and nonstructural additions, changes or adjustments to properties and structures which reduce or eliminate flood damage to lands, water and sanitary faculties, structures and contents of buildings.

7.Historic Structure. Any structure that is:

- (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of of the Interior as meeting the requirements for individual listing on the National Register.
- (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district.
- (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either;
 - 1. By an approved state program as determined by the Secretary of the Interior; or
 - 2. Directly by the Secretary of the Interior in states without approved programs.

8.Lowest Floor. The lowest floor of the lowest enclosed area (including the basement.) An unfinished or flood resistant enclosure, usable solely for

parking of vehicles, building access or storage in an area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

9.Manufactured Home. A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required facilities. The term also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

10.Manufactured Home Park or Subdivision. A parcel (or contiguous parcel) of land divided into two or more manufactured home lots for rent or sale for which the construction of facilities for servicing the lot on which the manufactured home is to be affixed (including, at a minimum, the installation of utilities, with final site grading or the pouring of concrete pads, and the construction of streets) have been provided.

11.New Construction. For flood plain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of this ordinance adopted by the City of Seaford and includes any subsequent improvements to such structure.

12.One Hundred (100) Year Flood. Flood has one chance in one hundred or a one percent chance of being equaled or exceeds in any given year.

13.Person. Any individual or group of individuals, corporations, partnership, association or other entity, including State and Local Government and Agencies.

14.Recreational Vehicle. A vehicle which is: (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) designed to be self-propelled or permanently towable by a light truck; and (d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

15.Start of construction. The first placement of permanent construction of a structure (other than a manufactured home) on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation. Permanent construction does not include land preparation such as clearing, grading and filling nor does it include the installation of streets and/or foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not as part of the main structure. For a structure (other than a manufactured home) without a basement or poured footings, the "start of construction" includes the first permanent framing or assembly of the structure or any part thereof on its piling or foundation. For manufactured homes not within a manufactured home park or manufactured home subdivision, "start of construction" means the affixing of the manufactured home to its permanent site. For manufactured homes within manufactured home parks or manufactured home subdivision, "start of construction" is the date on which the construction of facilities for servicing the site on which the

manufactured home is to be affixed (including at a minimum, construction of streets, either final site grading or the pouring of concrete pads, and installation of utilities) is completed.

16.Structure. A walled and roofed building, including a gas or liquid storage tank, that is principally above ground as well as a manufactured home.

17.Substantial Damage. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

18.Substantial Improvement. Any repair, reconstruction, or improvement of a structure, the cost of which exceeds or equals 50 percent of the market value of the structure either;

- (a) before the improvement or repair is started; or
- (b) if the structure has been damaged and is being restored, before the damage has occurred.

For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:

- (a) Any project for improvements of a structure to comply with existing State and local health, sanitary, or safety code specification which are solely necessary to assure safe living conditions;
- (b) Any alteration of a structure listed on the National Register of Historic Places or a State inventory of Historic Places.

Amended 12/14/93

ARTICLE 5. STANDARDS AND REGULATIONS.¹⁰

Division 1. Sign Regulations.¹¹

Sec. 15-63. Intent of Division.

¹⁰ **State law reference:** As to zoning generally, see 22 Del. Code Ann. §§ 301-308 (1953).

¹¹ **Charter reference:** As to power to control obstructions, see § 34.

Any sign hereafter erected or maintained shall conform with the provisions of this Division and any other ordinance or regulations of the City relating thereto.
(Zoning Ord., §501, 9/23/69).

Sec. 15-64. Exempt signs.

(a) The following signs shall be exempted from these regulations:

- (1) Directional, information or public service signs such as those advertising availability of rest-rooms, telephone or similar public conveniences, and signs advertising meeting times and places of non-profit service or charitable clubs or organizations, may be erected or maintained provided that such signs do not advertise any commercial or industrial establishment, activity, organization. Such signs shall not exceed two (2) square feet in area.
- (2) Trespassing signs, or signs indicating the private nature of a road, driveway or premises, may be erected and maintained provided sign are does not exceed two (2) square feet.

(Zoning Ord., §501.1, 9/23/69)

Sec. 15-65. Temporary sign regulations.

(a) The following regulations shall be observed in all districts:

- (1) Temporary signs including signs advertising land or premises available for purchase, development or occupancy, or announcements of special events, or signs of mechanics or artisans shall be permitted, provided that
 - (A) Real estate signs shall not exceed fifteen (15) square feet in area and not more than two (2) such signs shall be erected for any property held in single or separate ownership.
 - (B) Other signs shall not exceed fifteen (15) square feet in area, and such signs shall not be removed immediately upon the completion of work and the site or building on which the sign was erected shall be restored to its original condition upon removal of such signs.
 - (C) No such signs shall be illuminated except by concealed or indirect lighting attached to the sign itself.

- (D) Any free standing sign exceeding four (4) square feet shall be located at least ten (10) feet from any lot line.

(Zoning Ord., §501.2, 9/23/69)

Sec. 15-66. Signs in Residential Districts.

(a) The following types of signs and no others shall be permitted in R-1, R-2, and R-3 Districts except as provided in Sections 15-64 and 15-65 of this Article;

- (1) Identification signs for farms or estates, schools, churches, hospitals, and similar permitted uses other than dwellings; provided that:

- (A) The size of any such sign shall not exceed eighteen (18) square feet;

- (B) Not more than two (2) such signs shall be placed on premises held in single and separate ownership, unless such premises fronts on more than one (1) street in which case two (2) such signs may be erected on each street frontage.

- (2) Non-conforming use signs, provided that:

- (A) The total area of all such signs relating to a single use on September 23, 1969, or at the effective date of any amendment of this Ordinance by which any sign shall be made non-conforming, shall not be increased; and,

- (B) No such sign shall be changed or replaced except when authorized as a special exception by the Board of Adjustment.

(Zoning Ord., §501.3, 9/23/69.)

Sec. 15-67. Signs in Commercial and Industrial Districts.

(a) For the purposes of this Section, outdoor advertising displays shall be defined as one of the following types of signs:

Ground signs shall be displayed as an outdoor advertising display sign supported by uprights or braces in or upon the ground;

- (1) Ground signs shall be defined as an outdoor advertising display sign affixed to the wall of any building projecting not more than twelve (12) inches from the building;

- (2) Wall signs shall be defined as an outdoor advertising display sign affixed to the wall of any building projecting not more than twelve (12) inches from the building;

- (3) Projecting signs shall be defined as an outdoor advertising display sign affixed to the wall of any building and projecting more than twelve (12) inches from the buildings;
- (4) Portable signs shall be defined as an outdoor advertising display sign affixed to a self-supporting frame placed upon, but not anchored to the ground or grade surface;
- (5) Wall painted signs shall be defined as an outdoor advertising display sign painted on the exterior wall surface of a building.
- (b) The following types of signs and no others shall be permitted in C-1, C-2, M-1, and M-2 Districts except as otherwise provided in Sec. 15-64 and Sec. 15-85 hereof.

- (1) Any sign permitted pursuant to the provisions of Sec. 15-86 which related to a use permitted in the District.

- (2) Ground signs provided that:

- (A) The total area of one side of such sign shall not exceed one hundred fifty (150) square feet; and

- (B) The maximum height from the ground to the top of the sign shall not exceed forty (40) feet;

- (C) The minimum distance from the property line shall be five (5) feet.

- (3) Walls signs provided that:

- (A) The total area of one side of such sign shall not exceed thirty-six (36) square feet. In determining the total area, the area of individual letters affixed to the wall of a building shall be added to determine the total area in square feet;

- (B) No such sign nor any part thereof shall extend more than two (2) feet above the roof or parapet wall of a building;

- (C) Not more than one such sign shall be placed on any one street frontage of any one business or industry.

- (4) Projecting signs provided that;

- (A) The total area of one side of such sign shall not exceed fifteen (15) square feet;

- (B) No such sign or any part thereof shall extend more than two (2) feet above the roof or parapet wall of a building; and

- (C) Not more than one (1) such sign shall be placed on any one street frontage of any one business or industry.

- (5) Portable signs provided that:

- (A) The total area of one side of such sign shall not exceed sixteen (16) square feet.

- (B) Not more than two (2) such signs shall be placed on any one street frontage of any one business or industry; and

- (C) The minimum distance from the property line shall be five (5) feet.

- (6) Wall painted signs provided that:

(A) The total area shall not exceed ten percent (10%) of the wall surface (including window and door area) on which such sign is painted:

(B) Not more than one such sign shall be painted on any one street frontage on any one business or industry; and

(C) In determining the total area of the sign when individual letters are painted on the wall of a building without an outline or background the area of the individual letter shall be totaled to determine the square footage.

(c) The total area on one side of all signs placed on or facing any one street frontage of any one business or industry shall not exceed ten percent (10%) of the area of the wall surface (including window and door areas), or three (3) square feet for each lineal foot of building frontage on any one street, whichever is the greater.

(Approved June 24, 1975)

Sec. 15-68. Limitations on signs.

(a) The following regulations and limitations shall be observed:

- 1) No sign shall be erected within eighteen (18) inches of the curblin, except traffic signs and similar regulatory notices of a duly constituted governmental body;
- 2) No artificial light or reflecting device shall be used as a part of a sign where such light or device interferes with, competes for attention with, or may be mistaken for, a traffic signal;
- 3) Floodlighting shall be arranged so that the source of light is not visible from any point off the lot and that only the sign is directly illuminated thereby;
- 4) No sign shall be erected except on the property to which it is related;
- 5) No signs shall be erected containing information on it which states or implies that a property may be used for any purpose not permitted under the provisions of this Chapter;
- 6) Flashing, moving or oscillating lights are expressly prohibited;
- 7) Every sign permitted except temporary signs shall be constructed of durable material and kept in good condition and repair. Any sign which is allowed to become dilapidated shall constitute a nuisance and shall be removed by the City at the expense of the owner or lessee of the property on which it is located;

- 8) No commercial building including multiple dwellings or apartments in any residential district shall be illuminated on the exterior by flood lighting or spot lighting or similar type lighting;
 - 9) No sign which emits smoke, visible vapors or particles, sound or odor shall be permitted;
 - 10) Non-conforming signs once removed physically, may be replaced only with conforming signs; every sign erected shall also comply with the yard requirements for buildings for the Zoning District in which the sign is erected;
 - 11) No business or industrial sign shall be placed to face abutting Residential Districts.
 - 12) If a use ceases for a period of six (6) months, signs advertising the ceased business or businesses, shall be removed. Such signs may be removed by the City at the expense of the owner or lessee of the property on which the sign is located.
- (Zoning Ord., §501.5, 9/23/69.)

Division 2. General Regulations.¹²

Sec. 15-69. Visibility at intersection.

On the corner lot or any point of entry on a public road, nothing shall be erected, placed or allowed to grow in such a manner which obscures the vision above the height of two and one-half (2 ½) feet and below ten (10) feet, measured from the centerline grade of the intersecting streets or driveways and within the area bounded by the street lines of such corner lots and a line joining points on these street center lines seventy five (75) feet from the intersection along the lot lines.

(Zoning Ord. §502.1, 9/23/69)

Sec. 15-70. Swimming pool regulations.

- (a) All swimming pools shall be enclosed by a fence either around the entire property or around the pool area including any patio.
- (b) The type, quality and method of construction of the fence shall be such as shall be approved by the Zoning Officer with the intent that it shall act as a safeguard and protection to children. Such fence shall be at least four (4) feet in height, but not in excess of six (6) feet, non-removable and shall have a self locking type gate and shall be such as to prevent children and stray animals from going through it; provided

¹² **Charter reference:** As to power to control obstructions, see § 34.

State law reference: As to zoning generally, see 22 Del. Code Ann. §§ 301-308 (1953).

that existing, non-conforming fences may be approved by the Zoning Officer.

- (c) No swimming pool shall be constructed in the City except in accordance with a permit previously secured from the Zoning Officer, upon written application accompanied by a plan showing the size, shape and location of the swimming pool and its enclosure and such information as may be necessary to the Zoning Officer to determine whether the pool complies with this Chapter.

Sec. 15-71. Topsoil or sod removal.

(a) The following regulations shall apply in all district:

- (1) Topsoil or sod may be removed only under the following conditions:

- (A) As a part of the construction or alteration of a building or the grading incidental to such building;

- (B) In connection with normal lawn preparation and maintenance;

- (C) In connection with the construction or alteration of a street or utility improvements.

(Zoning Ord, §502.3, 9/23/69)

Sec. 15-72. Height limitation expectation.

The height limitations of this Chapter shall not apply to church spires, belfries, domes, monuments, observation towers, radio and television towers, windmills, chimneys, smokestacks, flag poles, masts and aerials, barns and silos, elevators, tanks and other projections neither intended nor used for human occupancy.

(Zoning Ord., 502.4, 9/23/69)

Sec. 15-73. Outdoor storage; junk yards.

Junk yards as defined in this Chapter shall be prohibited in all districts.

(Zoning Ord., §502.5, 9/23/69)

Sec. 15-74. Off-street parking standards.

- (a) Every parking space, outdoors or in a garage, shall consist of not less than two hundred (200) square feet of usable area for each motor vehicle. The required parking area shall be measured exclusive of interior driveways, or maneuvering areas. Outdoor parking or service areas for uses open to the public and the approaches thereto, shall be

paved according to City specifications and shall be graded, properly drained, and maintained in good condition. In computing the number of parking spaces required in Section 15-75, if the computation shall result in a fraction, a space shall be required for each such fractional amount.

- (b) An off-street parking facility existing on September 23, 1969, shall not subsequently be reduced to an amount less than required under this Chapter for a similar new building or new use. An off-street parking facility provided to comply with the provisions of this Chapter shall not subsequently be reduced below the requirements of this Chapter.
 - (c) Every parking lot shall be subject to the following buffer requirements:
 - (1) In the case of a parking lot which is necessary to a permitted use and which has facilities for five (5) or more automobiles, any boundary or property line which abuts a residence district or a lot used for resident purpose shall be screened from the adjacent property by a buffer planting strip not less than five (5) feet in width, as defined in Subsection (d), except where the Board of Adjustment shall determine as special exception that such screening is not necessary or practicable. Any buffer requirement of this Section shall be subject to any more stringent requirement of the district in which such lot is located.
 - (2) In the case of a parking lot which is a main use, such lot shall be enclosed, except for entrances or exits, by an ornamental fence or wall or by a compact evergreen hedge, not less than three (3) feet in height.
 - (d) Buffer planting strip – a strip of required yard space adjacent to the boundary of a property or district, not less in width than is designated in this Chapter, which is landscaped for the full width, and on which is placed a screen of sufficient density not to be seen through, and of sufficient height to constitute an effective screen and give maximum protection and immediate visual screening to an abutting property or district. The required screen shall be permanently maintained and shall constitute a planting of dense evergreens or a compact evergreen hedge or where otherwise specifically designated in this Chapter, an appropriate wall, fence, suitable planting or combination thereof.
- (Zoning Ord., § 502.6, 9/23/69)

Sec. 15-75. Off-street parking requirements.

Subject to the general requirement for off-street parking, off-street parking space, with proper access from a street, alley or driveway, shall be provided in all districts in the amounts indicated below. Such parking

space shall be provided on any lot on which a dwelling is hereafter erected or converted, or, in the case of any other use, on or near the lot on which any main building is hereafter erected or converted. Nothing in this Section shall be construed to prevent the collective provisions of off street parking facilities for two (2) or more buildings or uses, provided that the total of such off-street parking facilities provided collectively shall be not less than the sum of other requirements for various individual uses computed separately. In no case shall the number of parking spaces, provided, or the area devoted to parking, be less than the minimum requirements of this Section.

	USE	STANDARDS
1.	Single-family residence	One (1) space per dwelling unit
2.	Two family residences	One & one-half (1 ½) spaces per dwelling unit
3.	Garden Apartments	One & one-half (1 ½)
4.	Tourist, Rooming or Boarding House	One (1) space for each rental room, plus one (1) space for the resident family.
5.	Hotel, motel, or inn	One (1) space for each rental room or suite. If a restaurant in connection with such a use is open to the public, the off-street parking facilities for such restaurant shall be not less than those required for a restaurant.
7.	Theater, church, lodge, meeting place, etc.	One (1) space for every three fixed seats, or where the capacity is not determined by the number of fixed seats, one (1) space for each 60 square feet of floor area devoted to patron use.
8.	Retail store	One (1) space for each 200 feet of floor area, exclusive of basement areas if not used for sale or display of merchandise.
9.	Shopping Center	Seven (7) spaces for each 1,000 square feet of floor area exclusive of basement areas if not used for sale or display of merchandise. (Amended October 11, 1994)
10.	Office, Office Building, or Bank	One (1) space for each 200 square feet of floor area, exclusive of basement if not used for office purposes.
11.	Personal Service Establishments	One (1) space for each 100 square feet of customer service area in addition to one (1) space for each employee.
12.	Medical and Dental offices and clinics	One space for each 200 square feet of floor area, exclusive of basement if not used for office purposes. (Amended April 10,2001)
13.	Wholesale Establishment or Industrial Building	One (1) space for each 1,000 square feet of floor area, exclusive of basement areas not used for the sale or display of merchandise or manufacturing.
14.	Motor Vehicle Service Station or Public Garage	Two (2) spaces, either within or without the structure, for each 200 square feet of floor or ground area devoted to repair, sales or service facilities, and in addition, such space is as necessary for the normal vehicles. In no case shall

		the spaces for permitted motor vehicle storage in conjunction with a service station be less than five.
15.	Hospital, sanitarium or Nursing Home	One (1) space for each 600 square feet of floor area, exclusive of basement areas not devoted to patient use or living quarters of a student nurses; or one space for each two patient beds, whichever is the greater.
16.	Car Wash Establishment	Sufficient parking space to prevent the use of the adjoining public street for the storage or holding of motor vehicles before or after servicing.
17.	Bowling Alley	Three (3) spaces for each alley.
18.	Mortuary	One (1) space for each 100 square feet of floor area devoted to assembly room purposes.
19.	Private Kindergarten, Child Nursery	One (1) space for each 600 square feet of floor area.
20.	Building or Use, Other than Specified Above	For any building or open area used for a purpose not covered above. At least one space for each 1,000 square feet of gross floor are, or lot area, whichever is the larger, except when otherwise authorized as a special exception consistent with the principles set forth herein for comparable buildings.
21.	Employee Parking	For every use, other than an office building, for which there are regular employees, there shall be one (1) parking space provided for each two employees, on the largest shift, in addition to the above parking requirements.
22.	Multiple Dwellings	One and one-half (1 ½) spaces per dwelling unit.

Sec. 15-76. Off-street loading standards.

(a) Off-street loading and unloading spaces (s) with proper and safe access from street or alley, shall be provided on each lot where it is deemed that such facilities are necessary to adequately serve the uses within the district. Each loading and unloading spaces:

- (1) Shall be at least fourteen (14) feet wide, sixty (60) feet long and shall have at least fifteen (15) foot vertical clearance.
 - (2) Shall have a sixty (60) foot maneuvering area;
 - (3) Shall have an all-weather surface to provide safe and convenient access during all season;
 - (4) Shall not be constructed between the street right of way line and the building setback line.
- (b) Required off street parking space (including aisles) shall not be used for loading and unloading purposes except during hours when business operations are suspended.

(c) Loading and unloading facilities shall be designed so that trucks need not back in or out, or park in, any public right of way.

(d) No truck shall be allowed to stand in:

- (1) A right of way;
- (2) Automobile parking area (including aisles); or
- (3) In any way block the effective flow of persons or vehicles.

(Zoning Ord., § 502.7, 9/23/69)

Sec. 15-77. Off-street loading requirements.

At least one (1) off street loading space shall be provided for all commercial and industrial concerns in excess of thirty five hundred (3500) square feet of floor area. The number of loading and unloading spaces shall be left to the discretion of the developer. However, the standards of this Section shall be maintained and the number of proposed spaces approved by Council.

(Zoning Ord., § 502.7, 9/23/69)

Sec. 15-78. Conversion of dwelling to non-residential use; procedure.

(a) No dwelling shall be converted to a non-residence use except in accordance with the provisions of Article 3 of this Chapter, subject also to the standards prescribed in Article 8 of this Chapter.

(b) The Board of Adjustment may authorize as a special exception the conversion of any dwelling existing on September 23, 1969 to any non-residence use permitted in Districts C-1 and C-2, provided that:

- (1) The proposed use shall comply with the yard, area, off-street parking and other requirements of the applicable district, insofar as practicable.
- (2) No existing yards or required open space shall be reduced to less than the requirements of the applicable district governing a permitted use.
- (3) No living accommodations or sleeping quarters shall be authorized, except such accessory use as is permitted in the applicable district.
- (4) The proposed reconstruction and conversion shall be in keeping with the predominant character of the applicable district and shall not detract from the use of an adjoining property for any permitted use.

(Zoning Ord., § 502.8, 9/23/69)

Sec. 15-70. Conversion of dwelling to multi-family use; procedure.

(a) The Board of Adjustment may authorize as a special exception, subject to Article 3 of this Chapter, the conversion of a property in an R-2

district from single family to two-family occupancy, subject to the following requirements:

- (1) The lot area per dwelling unit shall not be reduced below the required lot area per family for this District.
- (2) One and one-half (1 ½) off-street parking spaces shall be provided for each additional dwelling unit provided.
- (3) Each family unit shall have not less than six hundred (600) square feet of gross habitable floor area, not including stairs and corridors.
- (4) There shall be no extension or structural alteration of the building exterior except as may be necessary for reasons of safety.
- (5) All other requirements of City codes, ordinances, and regulations shall be complied with.
- (6) No dwelling shall be converted unless, in connection therewith, it be placed in a reasonable state of repair and modernization.
- (7) The Board of Adjustment may prescribe such further conditions with respect to the conversion and use of buildings or property as it deems appropriate.
- (8) The lot area per duplex shall not be less than 9000 square feet.
- (9) One and one-half off street parking spaces shall be provided per dwelling unit.
- (10) All parking areas shall be paved with an approved paving materials of hot-mix pavement, concrete, or tar and chip pavement.
- (11) Ten (10%) percent of the lot shall be attractively landscaped with a minimum of four (4) shrubs, two (2) trees and other plantings. This area shall be clearly defined and protected from damage. The developer shall also maintain and replace any non-surviving plantings, as a requirement of occupancy.
- (12) All landscaping shall be located to be visible from the street frontage of the lot. Lot street frontage shall be determined by the Building Official.
- (13) Curbing or parking bumpers shall be provided at all parking spaces to protect all adjacent buildings and landscaped areas.
- (14) A screened trash container area shall be provided for all dwelling units. The minimum screened area dimensions per dwelling unit shall be four (4) feet wide, four (4) feet deep, and four (4) feet high.
- (15) The follow building setbacks shall be observed;
 1. Building setback line - 30 feet minimum
 2. Side Yards - 14 feet each side
 3. Rear Yard - 30 feet minimum

- (16) An enclosed storage area with a minimum of 300 cubic feet shall be provided for each dwelling unit. This storage area shall not be used for the storage of household garbage.

Sec. 15-80. Private and Community garages; regulations.

(a) A private garage constructed as an accessory use in a Residence District shall be subject to the following special provisions in regard to its location.

1. It may be constructed with a rear yard provided it is distant at least five (5) feet from the side and rear lot line.
2. Upon mutual written agreement filed with the Zoning Officer between property owners, party-wall private garages may be built across a common lot line.
3. An attached garage shall be subject to the yard requirements of the principal building.
4. A private garage or group of private garages accessory to garden apartments shall, however, in exception to the above provisions of this Section be distant at least five (5) feet from side or rear lot line.
5. Community garages when built on the same lot as a principal building shall be located in conformance with the requirements of this Section for private garages, but when built as the principal use on a separate lot they shall conform with all the setback provisions for a principal building for the district within which it is located, and in any case there shall be a distance of six (6) feet between separate structures housing such garage space

(Zoning Ord., §502.10, 9/23/69)

Sec. 15-80(a). Temporary Structures.

Temporary building, temporary real estate or construction office, and temporary storage of materials provided that such use is located on the lot where construction is taking place or on a lot adjacent or part of the development site thereto, and that such temporary use is to be terminated upon completion of construction.

Amended March 14, 1989.

Division 3. Performance Standards – Commercial and Industrial Districts.¹³

¹³ **State law reference:** As to zoning generally, see 22 Del. Code Ann. §§301-308 (1953)

Sec. 15-81. Observance of regulations.

The following regulations shall be observed in Commercial and Industrial Districts when required by Articles 3 and 4 of this Chapter.
(Zoning Ord., §503, 9/23/69)

Sec. 15-81A. Adult Entertainment Establishments; Location.

(a) No adult entertainment establishment as defined in 24 Del. C. §160292) shall be located:

- (1) Within 900 feet of any residence; or
- (2) Within 1500 feet of any other adult entertainment establishment;
- or
- (3) Within 3000 feet from any church or school.

Amended 2/26/85

Sec. 15-82. Fire and explosive hazards.¹⁴

All activities and all storage of flammable and explosive material at any point shall be provided with adequate safety devices against the hazards of fire and explosion and adequate fire-fighting and fire suppression equipment and devices, in accordance with National Fire Protection Association standards.

(Zoning Ord., §503.1, 9/23/69)

Sec. 15-83. Radioactivity or electrical disturbances.¹⁵

There shall be no activities which emit radioactivity at any point. There shall be no electrical disturbance adversely affecting the operation of any point of any equipment other than that of the creator of the disturbance.

(Zoning Ord., §503.2, 9/23/69)

Sec. 15-84. Smoke emission.¹⁶

There shall be no emission at any point from chimney or otherwise for longer than five (5) minutes in any hour of visible gray or visible smoke of any color with a shade darker than No. 3 of the Standard Ringieman Chart as issued by the Bureau of Mines.

(Zoning Ord., §503.3, 9/23/69)

Sec. 15-85. Air pollution prohibited.¹⁷

¹⁴ **Charter reference:** As to power to control fire hazards, see §32.

¹⁵ **Charter reference:** As to power to control electrical disturbances, see §32.

¹⁶ **Charter reference:** As to power to control smoke emission, see §32.

There shall be no emission at any point from any chimney or otherwise, which can cause any damage to health, to animals or vegetation or other forms of property, or which cause excessive soiling at any point.
(Zoning Ord., §503.5, 9/23/69)

Sec. 15-86. Liquid and solid wastes. ¹⁸

There shall be no discharge at any point, into any private or public sewage system, or stream or into the ground of any materials, liquids or solid wastes in such a way or of such a nature or of such a temperate as can contaminate or otherwise cause the emission of hazardous materials.

Sec. 15-87. Noises and vibrations.

There shall be no vibration or noise level at the property line greater than the average noise level occurring on adjacent streets.
(Zoning Ord., §503.6, 9/23/69)

Sec. 15-88. Glare.

No direct or sky-reflected glare, whether from floodlights or from high temperature process shall be visible from adjoining public streets or adjacent lots when viewed by a person standing on ground level.
(Zoning Ord., §503.7, 9/23/69)

Sec. 15-89. Odor emission.¹⁹

There shall be no emission of odorous gases or other odorous matter in such quantities as to be offensive on adjoining streets of adjacent lots.
(Zoning Ord., §503.8, 9/23/69)

Sec. 15-90. Operation.

All primary operations shall be conducted entirely within closed buildings.
(Zoning Ord., §503.8, 9/23/69)

Division 4. Design Standards – Commercial and Industrial Districts.²⁰

Sec. 15-91. Off-street parking design standards.

¹⁷ **Charter reference:** As to power to provide for health, see §32.

¹⁸ **Charter reference:** As to power to control health, see §32.

¹⁹ **Charter reference:** As to power to control nuisances, see §34.

²⁰ **Charter reference:** As to power to enact zoning regulations, see §36(A)

State law reference: As to zoning generally, see 22Del. Code Ann. §§301-308 (1953)

- (a) Parking spaces shall be clearly delineated by painted lines or markers.
- (b) Stalls shall be provided with bumper guards or wheel stops when necessary for safety or protection to adjacent structures of landscaped areas.
- (c) Surface drainage shall be connected to the existing or proposed drainage system.
- (d) All vehicular entrances and exits to parking areas shall be clearly designated for all conditions.
- (e) Short-term visitor parking spaces shall be differentiated from long-term employee spaces by suitable markings.
- (f) If spaces are used during evening hours, appropriate lighting shall be provided.

(Zoning Ord., §504.1, 9/23/69)

Sec. 15-92. Screening requirements.

- (a) A planted visual barrier, or landscaped screen, shall be provided and maintained by the owner or lessee of a property between any district and contiguous residentially zoned districts, except where natural or physical man-made barriers exist. This screen shall be developed as defined in Section 15-7(a)(62) of this Chapter. All plants not surviving three (3) years after planting shall be replaced.
- (b) All visual barriers or landscape screens shall be in accordance with the following minimum widths:
 - (1) In all Commercial districts – 5 feet.
 - (2) In Industrial districts – 10 feet.

(c) Any existing business affected by these regulations on September 23, 1969 shall not be required to comply with the above screening requirements except in case of enlargement or major alteration of such business. Similarly, for any zoning district boundary change after September 23, 196, initiated by a residential developer abutting a Commercial or Industrial zoned district property for which these regulations apply, these screening requirements shall not be imposed upon such Commercial or Industrial property.

Sec. 15-93. Landscaping.

- (a) Any part or portion of the site which is not used for buildings, other structures, loading or parking spaces and aisles, sidewalks are designated storage areas shall be planted with an all season ground cover and shall be landscaped with trees and shrubs in accordance with an overall landscape plan and shall be in keeping with natural surroundings. A replacement program for non-surviving plants should be included.
- (b) The plot plan must show a satisfactory method of irrigating all planted areas. This may be either by a permanent water system or by hose. Any single parking area with fifty (50) or more spaces shall utilize at least five

percent (5%) of its area in landscaping, which shall be in addition to open area requirements of the District.
(Zoning Ord., §504.3, 9/23/69)

Sec. 15-94. Shopping cart storage.

Any establishment which furnishes carts or mobile baskets as an adjunct to shopping, shall provide definite areas within the required parking space areas for storage of the carts. Each designed storage area shall be clearly marked for storage of shopping carts.
(Zoning Ord., §504.4, 9/23/69)

Sec. 15-95. Lighting requirements.

All parking areas, driveways, and loading areas shall be provided with a lighting system which shall furnish a minimum of three and one-half (3 ½) feet candles at any point during hours of operation, with lighting standards in parking areas being located not farther than one hundred (100) feet apart. All lighting shall be completely shielded from traffic on any public right of way and from any residential district.
(Zoning Ord., §501.5, 9/23/69)

Sec. 15-96. Interior circulation, access and control of traffic.

- (a) The interior circulation of traffic shall be designed so that no driveway or street providing parking spaces shall be used as a through-street. If parking spaces are indicated by lines with angles other than ninety (90) degrees, then traffic lanes shall be restricted to one way permitting head in parking. No driveway or street used for interior circulation shall have traffic lanes less than fifteen (15) feet in width.
- (b) Areas provided for loading and unloading delivery trucks and other vehicles, and for the servicing of shops by refuse collection, fuel and other service vehicles shall be adequate in size and shall be so arranged that they may be used without blockage, or interference with the use of access ways or automobile parking facilities.
- (c) All access ways to any public street or highway shall be located at least twenty (20) feet from the intersection of any two (2) property or right of way lines, and shall be designed in a manner conducive to safe ingress and egress. Where practicable exits shall be located on minor, rather than major, streets or highways.
- (d) No design shall be approved which is likely to create substantial traffic hazards endangering the public safety. Safety requirements which may be imposed in such a review shall include traffic control devices, acceleration or deceleration lanes, turning lanes, traffic and lane

markings and signs. The developer shall be responsible for the construction of any such traffic control devices.
(Zoning Ord., §504.6, 9/23/69)

Sec. 15-97. Building design.

Buildings shall be designed to take advantage of the natural terrain and shall not be physically located to unnecessarily concentrated activity in one(1) portion of the lot. At least one (1) entranceway shall be maintained at ground level. All pedestrian entrances shall be paved with an all-weather surface. A curbing shall be provided to separate parking areas, streets, and driveways.
(Zoning Ord., §504.8, 9/23/69)

ARTICLE 6. NON-CONFORMING USES, STRUCTURES AND LOTS.²¹

Division 1. Non-conforming Use Regulations.

Sec. 15-99. Non-conforming buildings and uses.

- (a) Any structure or use legally existing or authorized by a valid, unexpired building permit issued prior to the effective date of this Chapter may be continued although such structure and/or use does not conform to the provisions of this Chapter.
- (b) If a non-conforming use cease for one (1) year, it shall be deemed to be abandoned and any subsequent use shall be in conformity with the provisions of this Chapter, unless the non-conforming use is in a C-3 Riverfront Enterprise Zone where if the use ceases for six (6) months, it shall be deemed to be abandoned and any subsequent use shall be in conformity with the provisions of the Section.

Amended March 13, 2001.

- (c) The existence and extent of a non-conforming use shall be a question of fact to be determined by the Building Inspector. If, after investigation and an on-site inspection, he cannot make a confident determination, he shall deny the existence or extent of the non-conformity and shall notify the property owner of the right to appeal said determination to the Board of Adjustment.

Sec. 15-100. Changing classifications of non-conforming uses.

A non-conforming use of a structure may be changed to another non-conforming use of the same or a more restricted classification if authorized by the Board of Adjustment. Whenever a non-conforming use of a structure has been changed to a more restrictive classification or to a conforming use,

²¹ **Charter reference:** As to power to enact zoning regulations, see §36(A).

such use shall not thereafter be changed to a use of a less restrictive classification

Sec. 15-101. Structural alterations and repairs.

Repairs, re-siding and internal alterations, including structural, may be made in any structure or part thereof which is devoted to a non-conforming use or which was erected in a non-conforming manner, provided that a special exception must be secured if the existing non-conforming use is being changed to a different non-conforming use or the existing non-conforming area within the structure is to be increased.

Sec. 15-102. Extension of non-conforming use of building.

- (a) A non-conforming use of a building may be extended either on the same lot or a contiguous lot under the same ownership at the time of enactment of this Chapter if approved by the Board of Adjustment, subject to the following special requirements:
 - (1) The extension is for a use which is necessarily incident to the existing use;
 - (2) Such extension shall not encroach on any of the setback or yard requirements for the district in which the use is located;
 - (3) It will not impair the value of the adjoining property or adversely affect the character of the neighborhood.
- (b) A building non-conforming only as to height, area, or bulk requirements may be altered or extended, provided such alteration or extension does not increase the degree of non-conformity in any respect. A building which does not conform to the required setbacks in any respect, shall not be expanded either vertically or horizontally in the setback area.

Sec. 15-103. Destruction and rebuilding of non-conforming structure or use.

A non-conforming structure or a structure occupied by a non-conforming use which is destroyed by fire, explosion or act of God may be rebuilt and reused for the same purpose, provided that:

- (a) The reconstruction of the building is commenced within six (6) months from the date the building was destroyed and is carried through completion without undue delay. The Board of Adjustment may grant an extension of not exceeding an additional period of six (6) months, within which the reconstruction may be commenced in any case where the delay has been the result of causes outside the control of the owner of the building so destroyed.

- (b) The reconstructed building does not exceed in height the limit in the zoning district of the building destroyed, except when authorized by a special exception.

Amended January 25, 1994

Division 2. Non-conforming lots.

Sec. 15-104. Non-conforming lots; regulation.

In any district wherein a lot unimproved on September 23, 1969 and not adjoining either another unimproved lot or an improved lot owned or controlled by the owner of the lot in question, a building may be erected thereon without compliance to the provisions of this Chapter.

(Zoning Ord., §602.1, 9/23/69)

Division 3. Non-conforming Signs.²²

Sec. 15-105. Non-conforming signs.

Signs in existence on September 23, 1969, may be continued subject to the regulations prescribed in this Division.

(Zoning Ord. §603, 9/23/69)

Sec. 15-106. Non-conforming sign; moving.

No non-conforming advertising sign, billboard, commercial advertising structure or statuary shall be moved to another position on the building or lot on which it is located after September 23, 1969.

(Zoning Ord., §603.1, 9/23/69)

Sec. 15-107. Structural alterations.

A non-conforming sign on a non-conforming use may be continued but the area of such sign shall not be increased and such sign shall not be structurally altered.

(Zoning Ord., §603.2, 9/23/69)

Sec. 15-108. Damage or destruction of sign.

In the event that any non-conforming advertising sign, billboard, commercial advertising structure or statuary is damaged to the extent of fifty percent

²² **Charter reference:** As to power to control obstructions, see §34.

State law reference: As to zoning generally, see 22 Del. Code Ann. §§301-308 (1953)

(50%) of its cost or replacement whichever is less at the time of destruction, such sign shall not be restored or replaced.
(Zoning Ord., §603.3, 9/23/69)

Sec. 15-109. Discontinuance of sign.

Whenever any use of building or structure or land or of a combination of buildings, structures and land ceases, all signs accessory to such use shall be deemed to be come non-conforming and shall be removed within three (3) calendar months from the date of discontinuance of the use.
(Zoning Ord., §603.4, 9/23/69.)

ARTICLE 7. ADMINISTRATIVE PROCEDURES.²³

Division 1. Administration.

Sec. 15-110. Zoning officer; powers.

The duty of administering and enforcing the provisions of this Chapter is conferred upon the Zoning Officer who shall have such powers as are conferred on him in accordance with its literal terms. The Zoning Officer shall not have the power to permit any construction or any use or change of use which does not conform to this Chapter.
(Zoning Ord., §701.1, 9/23/69)

Sec. 15-111. Zoning officer; duties.

- (a) The duties of the Zoning Officer shall be:
- (1) Examine all applications for permits;
 - (2) Issue permits only for construction and uses which are in accordance with the regulations of this Chapter and other applicable ordinances as may be subsequently amended;
 - (3) Record and file all applications for permits with the accompanying plans;
 - (4) Issue permits for uses by special exception only after such uses and buildings are approved by the Board of Adjustment in accordance with the regulations of this Chapter;
 - (5) Receive all required fees and issue all necessary stop orders;
 - (6) Inspect or cause to be inspected non-conforming uses, buildings and signs, and to keep a filed record of such non-conforming uses and buildings as a public record, and to examine them periodically;

²³ **Charter reference:** As to power to enact zoning regulations, see §36(A)

State law reference: As to zoning generally, see 22 Del. Code Ann. §§301-308 (1953)

- (7) Upon the request of the Planning Commission or of the Board of Adjustment present such body facts, records, and similar information on specific requests to assist such body in reaching its decision; and
 - (8) Be responsible for keeping up-to-date this Chapter and Zoning District Map.
- (Zoning Ord., § 701.2, 9/23/69)

Sec. 15-112. Appeals from Zoning Officer.

Any appeal from a decision or action of the Zoning Officer shall be made directly to the Board of Adjustment.
(Zoning Ord., § 701.3, 9/23/69.)

Sec. 15-113. Written complaints; procedure.

Whenever a violation of this Chapter occurs, or is alleged to have occurred, any person may file a written complaint. The complaint stating fully the causes and basis thereof shall be filed with the Zoning Officer. He shall record promptly such complaint, immediately investigate, and take action thereon as provided by this Chapter.
(Zoning Ord., § 701.4, 9/23/69.)

Sec. 15-114. Notification of violation.

If the Zoning Officer finds that any of the provisions of this Chapter are being violated, he shall notify in writing, the person responsible for such violations, indicating the nature of the violation and order the action necessary to correct it.
(Zoning Ord., § 701.5, 9/23/69.)

Sec. 15-115. Enforcement of Chapter.

This Chapter shall be enforced by the designated Zoning Officer of the City. No permit of any kind as provided in this Chapter shall be granted by him for any purpose except in compliance with the provisions of this Chapter, or a decision of the Board of Adjustment or the Courts.
(Zoning Ord., § 701.6, 9/23/69.)

Sec. 15-116. Enforcement remedies.

In case any building, structure, or land is, or is proposed to be, erected, constructed, reconstructed, altered, converted, maintained or used in

violation of this Chapter, the Council or with the approval of the Council, the Zoning Officer, in addition to other remedies, may institute in the name of the municipality any appropriate action or proceeding to prevent, restrain, correct or abate such building, structure or land, or to prevent, in or about such premises, any act, conduct, business or use constituting a violation.

Sec. 15- 117. Penalties.

- (a) Any person who violates the provisions of this Chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than Fifty Dollars (\$50.00) nor more than Two Hundred Dollars (\$200.00).
- (b) For the purposes of this Chapter each day that a violation continues shall be deemed a separate offense.
(Zoning Ord., §701.8, 9/23/69.)

Division 2. Permits. ²⁴

Sec. 15-118. Permit required.

- (a) A zoning permit shall be required:
 - (1) Prior to the erection, construction or alteration of any building, structure or any portion thereof;
 - (2) Prior to moving of a building into the City, from one place in the City to another; and,
 - (3) Prior to the change or extension of non-conforming use. The zoning permit shall be issued simultaneously with the required building permit.
- (Zoning Ord., §702.1, 9/23/69.)

Sec. 15-119. Permit application; certification.

- (a) Application for permits shall be made in writing to the Zoning Officer on the Building Permit form furnished by the City. Such application shall include building and plot plans of a satisfactory nature, and shall contain all information necessary for such official to ascertain whether the proposed erection, alteration, use, or change in use complied with the provisions of this Chapter.
- (b) No permit shall be considered complete or permanently effective until the Zoning Officer has certified that the work meets all the requirements of applicable codes and ordinances.

²⁴ **Charter referenced:** As to power to enact zoning regulations, see §36(A).
State law reference: As to zoning generally, see 22 Del. Code Ann. §§301-308 (1953).

(Zoning Ord., §702.2, 9/23/69.)

Sec. 15-120. Permit; issuance.

No zoning permit shall be issued except in conformance with the regulations of this Chapter, except after written order from the Zoning Hearing Board or the Courts.

(Zoning Ord., §702.3, 9/23/69.)

Sec. 15-121. Permit expiration; renewal.

(a) No permit for the erection, razing, change alteration or removal of buildings shall be valid or effective after six (6) months from the date of issuance thereof and shall thereafter be void, unless the work authorized by such permit has been substantially commenced within six (6) months from the date of issuance and proceeded with, with due diligence.

(b) If, however, the applicant has been delayed in proceeding with the work for which the permit was granted by reason of any reasonable cause not due to his own negligence, the permit may be renewed without additional cost to the applicant.

(Zoning Ord., §702.4, 9/23/69.)

Sec. 15-122. Certificate of occupancy; issuance.

(a) Upon completion of the erection, or alteration of any building or portion thereof authorized by any permit, and prior to occupancy or use, the holder of such permit shall notify the Zoning Officer of such completion. No permit shall be considered complete or permanently effective nor shall any building be occupied or lot used until the Zoning Officer has issued an occupancy permit certifying that the work has been inspected and approved as being in conformity with the permit and the provisions of this Chapter.

(b) In Commercial and Industrial Districts in which performance Standards are imposed, subject to Division 3 of Article 5 of this Chapter, no Certificate of Occupancy shall become permanent until thirty (30) days after the facility is fully operating when upon a reinspection by the Zoning Officer it is determined that the facility is in compliance with all performance standards.

(Zoning Ord. §702.5, 9/23/69.)

Sec. 15-123. Temporary permit; issuance.

A temporary permit may be authorized by the Board of Adjustment as a special exception for a non-conforming structure or use which it deems beneficial to the public health or general welfare or which it deems necessary to promote the proper development of the community. Such non-conforming structure or use shall be completely removed upon expiration of the permit without cost to the City. Such a permit shall be issued for a specified period of time not exceeding six (6) calendar months, and may be renewed for an aggregate period of not more than two (2) years.

(Zoning Ord., §702.6, 9/23/69.)

Sec. 15-124. Sign permit required; issuance; application.

- (a) A sign permit shall be required prior to the erection or alteration of any sign, except temporary signs.
- (b) Application for permit shall be made in writing to the Zoning Officer, and shall contain all information necessary for such officer to determine whether the proposed sign, or the proposed alterations, conform to all the requirements of this Chapter.
- (c) No sign permit shall be issued except in conformity with the regulations of this Chapter, except after written order from the Board of Adjustment or the Courts;
- (d) All applications for sign permits shall be accompanied by plans or diagrams in duplicate and approximately to scale, showing the following:
 - (1) Exact dimensions of lot or building upon which the sign is proposed to be erected.
 - (2) Exact size, dimensions and location of the sign or lot or building.
 - (3) Any other lawful information which may be required or applicant by the Zoning Officer. One copy of the plan or diagram shall be returned to applicant, after the Zoning Officer has marked such copy either approved or disapproved, and attested to same.

(Zoning Ord., §702.7, 9/23/69.)

Division 3. Schedule of Fees.²⁵

Sec. 15-125. Schedule of fees; procedures.

²⁵ **Charter reference:** As to power to enact zoning regulations, see §36(A).
State law reference: As to zoning generally, see 22 Del. Code Ann. §§ 301-308 (1953).

- (a) The Council shall determine a schedule of fees; charges and expenses, as well as a collection procedure for special permits, variance, amendments and other matters pertaining to this Chapter.
 - (b) The Council shall be empowered to reevaluate the fee schedule and make necessary alterations to it. Such alteration shall not be considered an amendment to this Chapter, and may be adopted at any public meeting of the Council by resolution.
 - (c) The required fees for zoning district amendments may vary according to advertising costs and thus shall be kept up-to-date by the Council and the Zoning Officer. All such fees shall be paid into the Treasury.
 - (d) Special exceptions and variances shall be issued only after fees have been paid in full. The Board of Adjustment shall take no action on appeals until preliminary charges have been paid in full.
- (Zoning Ord., §703.1, 9/23/69.)

Division 4. Amendment Procedure.²⁶

Sec. 15-126. Amendment procedures.

- (a) The Council may, from time to time, amend, supplement, change, modify or repeal the zoning regulations, restrictions and boundaries.
- (b) No proposed amendment, change, modification, or repeal of any zoning regulations, restriction or boundary shall become effective until after a public hearing in relation thereto shall have been held by the Council, at which parties in interest and citizens shall have an opportunity to be heard. At least fifteen (15) days' notice of the time and place of such hearing shall be published in a newspaper of general circulation in the City. Additionally, when a change of zone is proposed, notice of the time and place of the hearing shall be sent by First Class Mail to the owners of properties or parts of properties within three hundred (300) feet of any boundary of the property proposed for the change of zone.
- (c) In the event of a protest against such changes signed by the owners of twenty percent (20%) or more, either of the area of the lots included in such proposed change, or of those lots within three hundred (300) feet of any boundary of the property proposed for the change, such amendment shall not become effective except by the favorable vote of three-fourths ($\frac{3}{4}$) of all the members of the Council. For purposes of this section, each lot shall be entitled to one vote.
- (d) If, after due consideration, a proposal is denied, the proposal shall not be eligible for reconsideration for a period of two (2) years after final

²⁶ **Charter reference:** As to power to enact zoning regulations, see §36(A).
State law reference: As to zoning generally, see 22 Del. Code Ann. §§301-308 (1953).

action by the Council, except upon the favorable vote of three-fourths (¾) of the Council.
(Zoning Ord., §704.1, 9/23/69.)

ARTICLE 8. BOARD OF ADJUSTMENT.²⁷

Sec. 15-127. Board of Adjustment; composition.

The Board of Adjustment shall be composed of the Mayor, the City Manager and the City Solicitor.
(Zoning Ord., §801.01, 9/23/69.)

Sec. 15-128. Board of Adjustment; powers.

- (a) The Board of Adjustment shall have the following powers:
- (1) Hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Building Inspector in the enforcement of this Chapter.
 - (2) Hear and decide exceptions to the terms of this Chapter upon which the Board is required to pass.
 - (3) Authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest, where, due to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship or exceptional practical difficulties, and so that the spirit of the chapter shall observed and substantial justice done.

(Zoning Ord., §802.1, 9/23/69.)
Amended 12/17/85

Sec. 15-129. Authority of Board.

In exercising its powers the Board may, in conformity with this Chapter, reverse or affirm, wholly or partly, or modify the order, requirement, decision of determination appealed from and make such order, requirement, decision or determination as ought to be made. To that end the Board shall have all the powers of the Building Inspector. Any order, requirement, decision or determination of the Board which requires or permits a specific act to be undertaken shall, as a condition thereto, prescribe a reasonable time limit within which such act is to be completed.
(Zoning Ord., §802.2, 9/23/69.)

Sec. 15-130. Board meetings; records.

²⁷ **Charter reference:** As to power to provide for a Board of Adjustment, see § 36(B),
State law reference: As to zoning generally, see 22 Del. Code Ann. §§301-308 (19530>

(a) Meetings of the Board shall be held at the call of the Chairman and at such other times, as the Board may determine. The Chairman or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public.

(b) The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions. The record shall be immediately filed in the office of the Board and shall be a public record.

(Zoning Ord., §801.2, 9/23/69.)

Sec. 15-131-. Rules adoption.

The Board of Adjustment shall make and adopt rules in accordance with the provisions of this Chapter.

(Zoning Ord., §802.3, 9/23/69.)

Sec. 15-132. Filing fee for appeal.

A fee, as determined by the Mayor and Council, shall accompany each appeal to the Board of Adjustment.

(Zoning Ord., §801.3, 9/23/69.)

Amended February 11, 2003.

Sec. 15-133. Appeals to Board.

Appeals to the Board may be taken by any person aggrieved or by any officer, department, board or bureau of the municipality affected by a decision of the Building Inspector, in the administration of this Chapter. The appeal shall be taken within thirty days (30) days by filing with the Zoning Officer and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The Zoning Officer shall immediately transmit to the Board all the papers constituting the record upon which the action appealed was taken.

(Zoning Ord., §701.4, 9/23/69.)

Sec. 15-134. Effect of appeal; stay.

An appeal shall stay all proceeding in furtherance of the action appealed from, unless the Zoning Officer certifies to the Board after the notice of appeal is filed with him that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such

case, proceedings shall not be stayed otherwise than be a restraining order which may be granted by the Board or by a court or record on application on notice to the Building Inspector for due cause shown. (Zoning Ord., §801.5, 9/23/69.)

Sec. 15-135. Hearings.

The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and by mail to the registered owners of the next five (5) properties adjoining or adjacent, in each direction, to the property upon which the appeal centers. The appeal shall be decided within a reasonable time not to exceed sixty (60) days from the date of the filing of such appeal. Upon the hearing, any party may appear in person or by agent or by attorney, provided that the agent or attorney produces authorization from his principal for acting in such a capacity.

Sec. 15-136. Petitions.

Any persons, jointly or severally aggrieved by any decision of the Board, or any taxpayer, or any officer, department, board or bureau of the City, may present to a court of record a petition, duly verified setting forth that such decision is illegal, in whole or in part, and specifying the grounds of the illegality. Such petition shall be represented to the court within thirty (30) days after the filing of the decision. The court may allow a writ of certiorari directed to the Board to review such decision of the Board and shall prescribe therein the time within which a return thereto shall be made and served upon the realtor's attorney, which shall not be less than ten (10) days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, upon application, on notice to the Board, and on due cause shown, grant a restraining order. (Zoning Ord., §803.2, 9/23/69.)

Sec. 15-137. Writ of certiorari; Board's duties.

The Board shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof or of such portions thereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified. (Zoning Ord., §804, 9/23/69)

